



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 4]

नई दिल्ली, शनिवार, जनवरी 28, 1989/माघ 8, 1910

[No. 4]

NEW DELHI, SATURDAY, JANUARY 28, 1989/MAGHA 8, 1910

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि और न्याय मंत्रालय

MINISTRY OF LAW AND JUSTICE

(विधि कार्य विभाग)

(Department of Legal Affairs)

सूचनाएं

NOTICES

नई दिल्ली, 15 दिसम्बर, 1988

New Delhi, the 15th December, 1988

सा.जा. 180.—नोटरीय नियम, 1956 के नियम 6 के अनुसरण
में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री मोहनप्रकाश
गुप्ता ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अन्तर्गत एक
आवेदन इस बात के लिए दिया है कि उसे नरवाना (हरियाणा) जिला
जिद में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

S.O. 180.—Notice is hereby given by the Competent
Authority in pursuance of rule 6 of the Notaries, 1956,
that application has been made to the said Authority, under
rule 4 of the said Rules by Shri Mohan Parkash Gupta for
appointment as a Notary to practise in Narwana, Distt.
Jind (Haryana).

2. उक्त व्यक्ति को नोटरी के रूप में नियुक्ति पर किसी भी प्रकार
का आक्षेप इस सूचना के प्रकाशन के चौदह दिनों के भीतर लिखित रूप
में भेरे पास भेजा जाए।

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this Notice.

[सं. 5(19)/88-न्या.]

[No. F. 5(19)/88-Judl.]

नई दिल्ली, 10 जनवरी, 1989

का.प्रा. 181.—अगोटरोज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री ए.पी. महाजन अधिवक्ता ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उन्हें पश्चिमी दिल्ली/दिल्ली में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति की नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपक्षेय इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(2)89-प्रा.]

कृष्ण बल, सक्षम प्राधिकारी

New Delhi, the 10th January, 1989

S.O. 181.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Sh. A. P. Mahajan, Advocate for appointment as a Notary to practise in West Delhi/Delhi.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(2)89-Judl.]

K. D. SINGH, Competent Authority

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 28 जुलाई, 1988

आयकर

का.प्रा. 182.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "महाराष्ट्र स्टेट वूमन काउन्सिल, बम्बई" को कर निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8056/का.सं. 197/188/86-आ.क. नि. (I)]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 28th July, 1988

(INCOME-TAX)

S.O. 182.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Maharashtra State Women's Council, Bombay" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8056/F. No. 197/188/86-IT(A1)]

का.प्रा. 183.—आयकर अधिनियम 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "शि इंडियन सिक्क पैक्सपोर्ट-प्रमोशन काउन्सिल बम्बई" को कर निर्धारण वर्ष 1985-86 से 1988-89 के लिए अधिसूचित करती है।

[सं. 8057/का.सं. 197/71/86-आ.क. (नि. I)]

S.O. 183.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Indian Silk Export Promotion Council, Bombay" for the purpose of the said sub-clause for the assessment years 1985-86 to 1988-89.

[No. 8057/F. No. 197/71/86 IT(A)]

नई दिल्ली, 3 अगस्त, 1988

का.प्रा. 184.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ "आंध्र महिला सभा, हैदराबाद" को कर निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8061/का.सं. 197/34/87-आ.क. (नि.-I)]

New Delhi, the 3rd August, 1988

S.O. 184.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Andhra Mahila Sabha, Hyderabad" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8061/F. No. 197/34/87-IT(A1)]

नई दिल्ली, 8 अगस्त, 1988

का.प्रा. 185.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ "इंस्टीट्यूट आफ एनिमल हेल्थ एण्ड वैटर्नरी बायोलॉजिकल हेल्थ, बंगलोर" को कर निर्धारण वर्ष 1987-88 और 1988-89 के लिए अधिसूचित करती है।

[सं. 8062/का.सं. 197/117/86-आ.क. (नि.-I)]

New Delhi, the 8th August, 1988

S.O. 185.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Institute of Animal Health and Veterinary Biologicals, Hebbal, Bangalore" for the purpose of the said sub-clause for the assessment years 1987-88 and 1988-89.

[No. 8062/F. No. 197/117/86-IT(A1)]

नई दिल्ली, 22 अगस्त, 1988

का.प्रा. 186.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "स्वामी रामानन्द तीर्थ मेमोरियल कमिटी, हैदराबाद" को कर निर्धारण वर्ष 1984-85 से 1988-89 के लिए अधिसूचित करती है।

[सं. 8076/का.सं. 197/59/88-आ.क. (नि.-I)]

आनन्द किशोर, सचिव

New Delhi, the 22nd August, 1988

S.O. 186.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Swami Ramananda, Tirtha Memorial Committee, Hyderabad" for the purpose of the said sub-clause for the assessment years 1984-85 to 1988-89.

[No. 8076/F. No. 197/59/88-IT(A1)]

ANAND KISHORE, Under Secy.

नई दिल्ली, 25 अगस्त, 1988

New Delhi, the 5th October, 1988

क्र.मा. 187—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ "Krishnamurti Foundation India, Madras" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8077/क्र.सं. 197/215/87-मा.क. (नि. I)]

New Delhi, the 25th August, 1988

S.O. 187.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Krishnamurti Foundation India, Madras" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8077/F. No. 197/215/87-IT(A1)]

नई दिल्ली, 1 सितम्बर, 1988

क्र.मा. 188—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "संगीतमहाभारती, बम्बई" को कर-निर्धारण वर्ष 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8089/क्र.सं. 197/199/86-मा.क. (नि.-1)]

New Delhi, the 1st September, 1988

S.O. 188.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sangit Mahabharati, Bombay" for the purpose of the said sub-clause for the assessment years 1986-87 to 1988-89.

[No. 8089/F. No. 197/199/86-IT(A1)]

क्र.मा. 189—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ "वि भारत स्काउट्स एण्ड गाइड्स" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8090/क्र.सं. 197/13/89-मा.क. (नि.-1)]

S.O. 189.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Bharat Scouts and Guides" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8090/F. No. 197/13/88-IT(A1)]

नई दिल्ली, 5 सितम्बर, 1988

क्र.मा. 190—आयकर अधिनियम 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त उपखंड के प्रयोजनार्थ, "आर्गेनाइजेशन, आफ फार्मास्यूटिकल प्रोड्यूसर्स आफ इंडिया" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8097/क्र.सं. 197/89/88-मा.क. (नि.-1)]

New Delhi, the 5th September, 1988

S.O. 190.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Organisation of Pharmaceutical Producers of India" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8097/F. No. 197/89/88-IT(A1)]

क्र.मा. 191—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "भारत समिति, कलकत्ता" को कर-निर्धारण वर्ष 1985-86 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8098/क्र.सं. 197/131/88-मा.क. (नि.-1)]

S.O. 191.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sarat Samity, Calcutta" for the purpose of the said sub-clause for the assessment years 1985-86 to 1988-89.

[No. 8098/F. No. 197/131/88-IT(A1)]

क्र.मा. 192—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (IV) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "जहांगीर आर्ट गैलरी, बम्बई" को कर-निर्धारण वर्ष 1983-84 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8099/क्र.सं. 197/31/88-मा.क. (नि.-1)]

S.O. 192.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Jehangir Art Gallery, Bombay" for the purpose of the said sub-clause for the assessment years 1983-84 to 1988-89.

[No. 8099/F. No. 197/31/88-IT(A1)]

नई दिल्ली, 13 सितम्बर, 1988

क्र.मा. 193—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "डिवीन लाइट ट्रस्ट फॉर दि ब्लाइंड, बंगलूर" को कर-निर्धारण वर्ष 1987-88 और 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8103/क्र.सं. 197/100/87-मा.क. (नि.-1)]

New Delhi, the 13th September, 1988

S.O. 193.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Divine Light for the Blind, Bangalore" for the purpose of the said sub-clause for the assessment years 1987-88 and 1988-89.

[No. 9103/F. No. 197/100/87-IT(A1)]

नई दिल्ली, 5 अक्टूबर, 1988

क्र.मा. 194—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों

का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उक्त उपखण्ड के प्रयोजनार्थ "खालापर शिशु निवास एवं शिक्षा केन्द्र, कलकत्ता" को कर-निर्धारण वर्ष 1988-89 और 1989-90 तक के लिए अधिसूचित करती है।

[सं. 8115/फा.सं. 197/153/88-आ.क. (नि.-1)]

New Delhi, the 5th October, 1988

S.O. 194.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Khelegar Shishu Nivas and Shiksha Kendra, Calcutta" for the purpose of the said sub-clause for the assessment years 1988-89 and 1989-90.

[No. 8115/F. No. 197/153/88-IT(A1)]

का.आ. 195:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उक्त उपखण्ड के प्रयोजनार्थ, "कर्नाटक स्टेट सीड सर्टिफिकेशन एजेंसी, बंगलूर" को कर-निर्धारण वर्ष 1987-88 से 1989-90 तक के लिए अधिसूचित करती है।

[सं. 8116/फा.सं. 197/240/87-आ.क.नि.-1)]

S.O. 195.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Karnataka State Seed Certification Agency, Bangalore" for the purpose of the said sub-clause for the assessment years 1987-88 to 1989-90.

[No. 8116/F. No. 197/240/87-IT(A1)]

नई दिल्ली, 10 अक्टूबर, 1988

का.आ. 196:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उक्त उपखण्ड के प्रयोजनार्थ, "वेस्ट जोन कल्चरल, सेंटर, उदयपुर, राजस्थान" को कर-निर्धारण वर्ष 1987-88 से 1989-90 तक के लिए अधिसूचित करती है।

[सं. 8118/फा.सं. 197/249/87-आ.क. (नि.-1)]

New Delhi, the 10th October, 1988

S.O. 196.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "West Zone Cultural Centre, Udaipur, Rajasthan" for the purpose of the said sub-clause for the assessment years 1987-88 to 1989-90.

[No. 8118/F. No. 197/249/87-IT(A1)]

नई दिल्ली, 11 अक्टूबर, 1988

का.आ. 197:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा उक्त उपखण्ड के प्रयोजनार्थ, "संजय गांधी स्मॉल साइज, ट्रस्ट, नई दिल्ली" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8122/फा.सं. 197/49/87-आ.क. (नि.-1)]

New Delhi, the 11th October, 1988

S.O. 197.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sanjay Gandhi Memorial Trust, New Delhi" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8122/F. No. 197/49/87-IT(A1)]

नई दिल्ली, 1 नवम्बर, 1988

का.आ. 198:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उपखण्ड के प्रयोजनार्थ एतद्द्वारा "वि टाटा एग्रिकल्चरल एण्ड रूरल ट्रेनिंग सेंटर फॉर दि ब्लाइण्ड" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8126/फा.सं. 197/161/88-आ.क. (नि.-1)]

New Delhi, the 1st November, 1988

S.O. 198.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Tata Agricultural and Rural Training Centre for the Blind" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8126/F. No. 197/161/88-IT(A-1)]

नई दिल्ली, 7 नवम्बर, 1988

का.आ. 199:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त उपखण्ड प्रयोजनार्थ केन्द्रीय सरकार, एतद्द्वारा, "दि बिल्डिंग्स बुक ट्रस्ट, नई दिल्ली" को कर-निर्धारण वर्ष 1985-86 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8128/फा.सं. 197/132/88-आ.क. (नि.-1)]

New Delhi, the 7th November, 1988

S.O. 199.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Children's Book Trust, New Delhi" for the purpose of the said sub-clause for the assessment years 1985-86 to 1988-89.

[No. 8128/F. No. 197/132/88-IT(A1)]

नई दिल्ली, 6 दिसम्बर, 1988

का.आ. 200:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उक्त उपखण्ड के प्रयोजनार्थ "वि मोतीलाल मेमोरियल सोसायटी, लखनऊ" को कर-निर्धारण वर्ष 1988-89 के लिए अधिसूचित करती है।

[सं. 8139/फा.सं. 197/55/88-आ.क. (नि.-1)]

New Delhi, the 6th December, 1988

S.O. 200.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Memorial Society, Lucknow" for the purpose of the said sub-clause for the assessment year 1988-89.

[No. 8139/F. No. 197/55/88-IT(A1)]

नई दिल्ली, 9 दिसम्बर, 1988

का. प्रा. 201.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "श्री गज महाराज मिशन, बम्बई" को कर-निर्धारण वर्ष 1986-87 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8140/का.सं. 197/70/86-आ.क. (नि.-1)]

New Delhi, the 9th December, 1988

S.O. 201.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Shri Gadge Maharaj Mission, Bombay" for the purpose of the said sub-clause for the assessment years 1986-87 to 1988-89.

[No. 8140/F. No. 197/70/86-IT(A1)]

का.प्रा. 202.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उपखण्ड के प्रयोजनार्थ, "भाल बंगाल वूमन्स यूनियन, कलकत्ता" को कर-निर्धारण वर्ष 1984-85 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8141/का.सं. 197/176/88-आ.क. (नि.-1)]

दलीप सिंह, विशेष कार्य अधिकारी

S.O. 202.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "All Bengal Women's Union, Calcutta" for the purpose of the said sub-clause for the assessment years 1984-85 to 1988-89.

[No. 8141/F. No. 197/176/88-IT(A1)]

DALIP SINGH, Officer on Special Duty

नई दिल्ली, 30 दिसम्बर, 1988

प्रधान कार्यालय संस्थापन

का.प्रा. 203.—केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 की संख्या 54) की धारा 3 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग कर हुए केन्द्रीय सरकार एतद्वारा भारतीय राजस्व सेवा (आयकर) के अधिकारी श्री ए.एस. थिम्ब को, जो इससे पहले मुख्य आयकर आयुक्त, बम्बई के पद पर सेनात, दिनांक 30 दिसम्बर, 1988 के अवकाश से भगले आवेशों तक केन्द्रीय प्रत्यक्ष कर बोर्ड के सदस्य के पद पर नियुक्त करती है।

[का.सं. ए-19011/11/88-प्रशा. I]

New Delhi, the 30th December, 1988

HEADQUARTERS ESTABLISHMENT

S.O. 203.—In exercise of the powers conferred by sub-section (2) of section 3 of the Central Boards of Revenue Act, 1963 (No. 54 of 1963), the Central Government hereby appoints Shri A. S. Thind an officer of the Indian Revenue Services (I.T.) and formerly posted as Chief Commissioner of Income-tax, Bombay, as Member of the Central Board of Direct Taxes with effect from the afternoon of the 30th December, 1988 and until further orders.

[F. No. A-19011/11/88-Ad. I]

का.प्रा. 204.—केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 की सं. 54) की धारा 3 की उप धारा (2) द्वारा प्रदत्त शक्तियों का

प्रयोग कर हुए, केन्द्रीय सरकार एतद्वारा भारतीय राजस्व सेवा (आयकर) के अधिकारी श्री सी.एस. जैन को, जो इससे पूर्व मुख्य आयकर आयुक्त, पटियाला के पद पर सेनात थे, दिनांक 30 दिसम्बर, 1988 पूर्वार्द्ध से, भगले आवेशों तक, केन्द्रीय प्रत्यक्ष कर बोर्ड के पद पर नियुक्त करती है।

[का.सं. ए-19011/12/89-प्रशा. 1]

एन. दास, अवर सचिव

S.O. 204.—In exercise of the powers conferred by sub-section (2) of section 3 of the Central Boards of Revenue Act, 1963 (No. 54 of 1963), the Central Government hereby appoints Shri C. S. Jain, an officer of the Indian Revenue Services (I. T.) and formerly posted as Chief Commissioner of Income-tax, Patiala, as Member of the Central Board of Direct Taxes with effect from the forenoon of the 30th December, 1988 and until further orders.

[F. No. A-190/12/88-Ad.I]

N. DAS, Under Secy.

प्रादेश

नई दिल्ली, 5 जनवरी, 1989

स्टाम्प

का.प्रा. 205.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा आवास विकास वित्त निगम, लिमिटेड, बम्बई को केवल पांच लाख रु. के उस समेकित स्टाम्प शुल्क को भुगतानी करने की अनुमति प्रदान करती है जो उक्त निगम द्वारा जारी किए जाने वाले मात्र पांच करोड़ रु. के संकेत मूल्य के प्रामिसरी नोटों के रूप में एच.डी.एफ.सी. 12.5 प्रतिशत प्राईज बंधपत्र निर्गम पर स्टाम्प शुल्क के कारण प्रसार्य है।

[सं. 2/89-स्टाम्प/का.सं. 33/73/88-वि. कर]

ORDERS

New Delhi, the 5th January, 1989

STAMPS

S.O. 205.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the Housing Development Finance Corporation Limited, Bombay to pay consolidated stamp duty of rupees five lakhs only, chargeable on account of the stamp duty on HDFC 12.5% Eight Bonds Issue in the form of promissory notes of the face value of rupees five crores only to be issued by the said corporation.

[No. 2/89-Stamps/F. No. 33/73/88-ST]

का.प्रा. 206.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो हरियाणा वित्त निगम द्वारा जारी किए जाने वाले मात्र दो करोड़ सैटालिस लाख और पचास हजार रु. मूल्य के नियमित बंधपत्रों की 31वीं श्रृंखला के रूप में प्रामिसरी नोटों के स्वरूप के बंधपत्रों पर उक्त अधिनियम के अन्तर्गत प्रसार्य है।

[सं. 1/89-स्टाम्प का.सं. 33/67/88-वि. कर]

बी. आर. मेहता, अवर सचिव

S.O. 206.—In exercise of the powers conferred by clause (A) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of promissory notes, 31st series of Regular bonds of the value of rupees two crores forty seven lakhs and fifty thousand only to be issued by Haryana Financial Corporation are chargeable under the said Act.

[No. 1/89-Stamp/F. No. 33/67/88-ST]

B. R. MEHMI, Under Secy.

(व्यय विभाग)

नई दिल्ली, 11 जनवरी, 1989

का.प्र. 207.—अधिव्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करके हुए, केन्द्रीय सरकार एतद्वारा निर्देश देती है कि उक्त अधिनियम के उपबंध (धारा 6क को छोड़ कर) इन्दिरा गांधी राष्ट्रीय उद्घान मकादमी, नई दिल्ली के कार्यवाहियों के लाभ के लिए संस्थापित अधिव्य निधि पर लागू होंगे।

[सं. 4(2)संस्था-5/83(1)]

(Department of Expenditure)

New Delhi, the 11th January, 1989

S.O. 207.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except section 6A) shall apply to the Provident Fund established for the benefit of the employees of the Indira Gandhi Rashtriya Uran Akademy, New Delhi.

[No. 4(2)-EV83(I)]

का.प्र. 208.—अधिव्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करके हुए, केन्द्रीय सरकार एतद्वारा उक्त अधिनियम की अनुसूची में निम्नलिखित लोक संस्थान का नाम जोड़ती है, यथा :—

"इन्दिरा गांधी राष्ट्रीय उद्घान मकादमी, नई दिल्ली"।

[सं. 4(2)-संस्था-5/83 (ii)]

अनजली देवशर, उप सचिव

S.O. 208.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act the name of the following public institution, namely :—

"Indira Gandhi Rashtriya Uran Akademy, New Delhi"

[No. 4(2)-EV/83(II)]

ANJALI DEVASHER, Dy. Secy.

(आर्थिक कार्य विभाग)

(शेयर बाजार प्रभाग)

नई दिल्ली, 17 जनवरी, 1989

का.प्र. 209.—भारतीय यूनिट ट्रस्ट अधिनियम, 1963 (1963 का 52वां अधिनियम) की धारा (10) के खण्ड (क) के अनुसरण में, केन्द्रीय सरकार भारतीय औद्योगिक विकास बैंक के साथ परामर्श करके एतद्वारा श्री एम. जे. फेरवानी को पहली जनवरी, 1989 से आरम्भ होने वाली और 31 दिसम्बर, 1993 को समाप्त होने वाली अवधि में लिए भारतीय यूनिट ट्रस्ट के अध्यक्ष के पद पर पुनः नियुक्त करती है।

[फ. संख्या 11/34/एस.ई./88]

पी.जी. मंकड, संयुक्त सचिव

(Department of Economic Affairs)

(Stock Exchange Division)

New Delhi, the 17th January, 1989

S.O. 209.—In pursuance of clause (a) of Section (10) of the Unit Trust of India Act, 1963 (52 of 1963), the Central Government hereby re-appoints, in consultation with the Industrial Development Bank of India, Shri M. J. Pherwani as the Chairman of the Unit Trust of India for the period commencing the 1st January, 1989 and ending with 31st December, 1993.

[F. No. 11/34/SE/88]

P. G. MANKAD, Jt. Secy.

आद्य. एवं नागरिक प्रति मंत्रालय

(नागरिक प्रति विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 27 दिसम्बर, 1988

का. प्र. 210.—भारत के राजपत्र भाग 2 खंड 3 उपखंड (2), दिनांक 1983-01-01 में प्रकाशित आद्य-एवं नागरिक प्रति मंत्रालय नागरिक प्रति विभाग भारतीय मानक ब्यूरो की अधिसूचना संख्या का.प्र. 207 दिनांक 1982-12-15 का आंशिक संशोधन करते हुए "भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि भिन्न वस्तु आहार की प्रति इकाई मुहरांकन फीस, जिसका विवरण नीचे अनुसूची में दिया गया है, संशोधित कर दी गई है मुहरांकन फीस की संशोधित दर 1984-07-06 से लागू होगी।

अनुसूची

क्रम सं.	उत्पाद/उत्पात श्रेणी	संबन्ध भारतीय मानक की संख्या और इकाई वर्ष	प्रति इकाई मुहरांकन कीमत
1	2	3	5
1. शिशु दुग्ध आहार	IS 1547-1968 टिप्पण : मुहरांकन कीमत की दर विनाश 1988-08-01 से निम्नानुसार संशोधित कर दी गई है: (1) 25.00 रु. प्रति इकाई, पहली 1000 इका- इयों के लिए, (2) 10.00 रु. प्रति इकाई, 1001वीं इकाई और उससे अधिक इकाईयों के लिए (इकाई-एक टन)	एक टन	(1) 25.00 रु. प्रति इकाई, पहली 250 इकाईयों के लिए, (2) 12.00 रु. प्रति इकाई पहली 251वीं इकाई से 500 इकाईयों तक के लिए, और (3) 8.00 रु. प्रति इकाई 501 वीं इकाई और और उससे अधिक इकाईयों के लिए

[संख्या सीएम डी 13 : 10]

कि०रा. परमेश्वर, महानिदेशक

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

BUREAU OF INDIAN STANDARDS

New Delhi, the 27th December 1988

S.O. 210. --In partial modification of the then Ministry of Civil Supplies (Bureau of Indian Standards notification number S.O. 207 dated 1982-12-15 published in the Gazette of India, Part-II, Section-3, Sub-section(ii) dated 1983-01-01 the Bureau of Indian Standards, thereby notifies that the marking fee per unit for infant milk food details of which are given in the Schedule hereto annexed has been revised. The revised rate of marking fee shall come into force with effect from 1984-07-01 :

SCHEDULE

Sl. No.	Product/Class of Product	No. & Year of the Relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1.	Infant milk food	IS : 1547-1968	One Tonne	(i) Rs. 25.00 per unit for the first 250 units; (ii) Rs. 12.00 per unit for the 251st to 500 units and. (iii) Rs. 8.00 per unit for the 501st unit & above.

NOTE : Rate of Marking Fee has since been revised as under with effect from 1988-08-01 :

- (i) Rs. 25.00 per unit for the first 1000 units, and
(ii) Rs. 10.00 per unit for the 1001st unit and above.
(Unit One Tonne)

[No. CMD/13 : 10]

K.R. PARAMESVAR, Director General

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 12 जनवरी, 1989

का.प्रा.216.--यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के उर्जा मंत्रालय पेट्रोलियम विभाग की अधिसूचना का.प्रा.सं. 560 तारीख 12-3-8 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अग्रस्त अधिकार घोषित कर दिया था ;

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है ;

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है ;

अब, अतः उक्त अधिनियम की धारा 6 उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है ;

और प्राग् उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय गैस अथॉरिटी ऑफ इंडिया लि. वर्ण बिल्डिंग, धार.सी. दल रोड, बड़ोदरा को सभी बाधाओं से मुक्त रूप में बोयणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

हजिरा-बीजापुर-जगदीशपुर गैस पाइप लाइन				
राज्य : गुजरात	जिला : पंचमहल	तालुका : हलोल		
गांव	सर्वे नं.	हेक्टर	आर.	सेटीयर
तरखंडा	645	0	08	26

[सं. ओ.-14016/457/84-जी.पी.]

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 12th January, 1989

S.O. 211.—Whereas by notification of the Government of India in the Ministry of Petroleum S.O. 560 dated 12-3-88 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under Sub-Section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-Section (1) of the Section 6 of the said act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline.

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands, shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Ltd. free from all cumbances.

SCHEDULE

PIPELINE FROM HAZIRA—BIJAPUR—JAGDISHPUR
State: Gujarat District: Panchmahal Taluka: Halol

Village	Survey No.	Hectare	Are	Centiare
Tarkhanda	645	0	08	26

[No. O-14016/457/84-GP]

का.प्रा. 212.—यतः पेट्रोलियम और खनिज पाइपलाइन (अभि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के ऊर्जा मंत्रालय पेट्रोलियम विभाग की अधिसूचना का.प्रा.सं. 547 तारीख 12-3-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अथवा प्राप्ति कोषित कर दिया था ;

और यतः अग्रिम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है ;

और प्राग्, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है ;

अतः, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है ;

और प्राग् उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय गैस अथॉरिटी ऑफ इंडिया लि. वर्ण बिल्डिंग, धार.सी. दल रोड, बड़ोदरा सभी बाधाओं से मुक्त रूप में बोयणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

हजिरा-बीजापुर-जगदीशपुर गैस पाइप लाइन				
राज्य : गुजरात	जिला : पंचमहल	तालुका : हलोल		
गांव	सर्वे नं.	हेक्टर	आर.	सेटीयर
गोपीपुरा	293	0	17	00

[सं. ओ.-14016/436/84-जी पी]

S.O. 212.—Whereas by notification of the Government of India in the Ministry of Petroleum S.O. 547 dated 12-3-88 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under Sub-Section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the said lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines.

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands, shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Ltd. free from all cumbances.

SCHEDULE

PIPELINE FROM HAZIRA—BIJAPUR—JAGDISHPUR
State : Gujarat District : Panchmahal Taluka : Halol

Village	Survey No.	Hectare	Are	Centiare
Gopipura	293	0	17	00

[No. O-14016/436/84-GP]

का.भा. 213.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजीरा-बीजापुर से जगदीशपुर तक एनोड बेड और केबल के लिये गैस अथोरिटी आफ इंडिया लि. द्वारा बिछाई जानी चाहिए।

और यतः प्रतीत होता है कि ऐसी भेनोर्ड बेड और केबल को बिछाने के प्रयोजन के लिये एनडपाबड अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के भीचे भेनोर्ड बेड और केबल बिछाने के लिए आक्षेप सक्षम प्राधिकारी, गैस अथोरिटी आफ इंडिया लि. वर्ण विडिंग, धार. सी. दत्त रोड, बड़ोदरा को इस अधिसूचना की तारीख 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितता यह भी कथन करेगा कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

भेनोर्ड बेड और केबल के लिए हजीरा-बीजापुर-जगदीशपुर
पाइप लाइन

राज्य : गुजरात	जिला : सुरत	तहसील :	मांगरोल
गांव	ब्लॉक नं.	हेक्टर	आर सेंटीयर
कोसम्बा-	425	0	07 45

[सं. ओ.-14016/1/89-जी पी.]

S.O. 213.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur—Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

FOR ANODEBAD AND CABLES IN HAZIRA-BIJAPUR-JAGDISHPUR

State : Gujarat	Dist. : Surat	Tal. : Mangrol
Village	Survey No.	Hectare Area Contain
Ko amba	425	0 07 45

[No. O-14016/1/89-GP]

का.भा. 214.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजीरा-बीजापुर से जगदीशपुर तक एनोड बेड और केबल के लिये गैस अथोरिटी आफ इंडिया लि. द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी भेनोर्ड बेड और केबल को बिछाने के लिये प्रयोजन के एनडपाबड अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे भेनोर्ड बेड और केबल बिछाने के लिए आक्षेप सक्षम प्राधिकारी, गैस अथोरिटी आफ इंडिया लि. वर्ण विडिंग, धार.सी. दत्त रोड, बड़ोदरा को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितता यह भी कथन करेगा कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

भेनोर्ड बेड और केबल के लिए हजीरा-बीजापुर-जगदीशपुर
पाइप लाइन

राज्य : गुजरात	जिला : पंचमहल	तहसील : देवग	धारिया
गांव	सर्वे नं.	हेक्टर	आर सेंटीयर
घेरपुरा	61	0	06 05
	63	0	02 26
	81/1	0	02 80

[सं. ओ.-14016/2/89-जी. पी.]

S.O. 214.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur—Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

FOR ANODEBAD AND CABLES IN HAZIRA—
BIJAPUR—JAGDISHPUR

State : Gujarat Dist. : Panchmahal, Tal : Baria

Village	Survey No.	Hectare	Are	Centiare
Sherpura	61	0	06	05
	63	0	02	26
	81/1	0	02	80

[No. O-14016/2/89-GP]

का. भा. सं. 215.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजौरा—बीजापुर से जगदीशपुर तक एनोड बेड और केबल के लिए रीस प्राथोरिटी आफ इन्डिया लि. द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी एनोड बेड और केबल को बिछाने के प्रयोजन के लिए एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे एनोड बेड और केबल बिछाने के लिए आक्षेप राक्षम प्राधिकारी, रीस प्राथोरिटी आफ इन्डिया लि. रपण बिल्डिंग, बार. सी. दत्त रोड, बड़ोदरा को इस अधिसूचना की तारीख 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितता यह भी कथन करेगी कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

एनोड बेड और केबल के लिए हजौरा—बीजापुर—जगदीशपुर—पाइप लाइन—राज्य—गुजरात जिला—पंचमहल

तहसील—करजन

गांव	ब्लॉक नं.	हेक्टर	आरे	सेन्टीयर
भार	350	0	00	80
	355	0	06	72

[सं. प्रो.-4016/3/89-जी पी]

S.O. 215.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur-Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

FOR ANODEBAD AND CABLES IN HAZIRA—
BIJAPUR—JAGDISHPUR

State : Gujarat, Dist : Baroda, Tal : Kariar.

Vill.	Block No.	Hectars	Are	Centiar
Vemar	350	0	00	80
	355	0	06	72

[No. O-14016/3/89-GP]

का. भा. 216.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजौरा—बीजापुर से जगदीशपुर तक एनोड बेड और केबल के लिए रीस प्राथोरिटी आफ इन्डिया लि. द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी एनोड बेड और केबल को बिछाने के प्रयोजन के लिए एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप, एनोड बेड और केबल बिछाने के लिए आक्षेप राक्षम प्राधिकारी, रीस प्राथोरिटी आफ इन्डिया लि. रपण बिल्डिंग गर. सी. दत्त रोड, बड़ोदरा को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितता यह भी कथन करेगी कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

एनोड बेड और केबल के लिए हजौरा—बीजापुर—जगदीशपुर—पाइप लाइन—राज्य—गुजरात जिला—पंचमहल तहसील—लीमखेडा

गांव	स.नं.	हेक्टर	आरे	सेन्टीयर
जावा—खेरीया	150	0	14	07

[सं. प्रो.-14016/4/89-जी पी]

S.O. 216.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur—Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

FOR ANODEBAD AND CABLES IN HAZIRA—BIJAPUR—JAGDISHPUR

State Gujarat	Distt: Panchmahal	Tal.: Limkha
Village:	Survey No.	Hectare Are Centiare
Jalkhriya	150	0 14 07

[No. O-14016/4/89-GP]

का. भा. 217.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजोरा—बीजापुर से जगदीशपुर तक एनोड बेड और केबल के लिए गैस प्रायोरिटी आक्र इम्बिया लि. द्वारा बिल्डिंग जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी एनोड बेड और केबल को बिछाने के प्रयोजन के लिए एतद्प्रावृद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

अतः कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे एनोड बेड और केबल बिछाने के लिए आक्षेप सक्षम प्राधिकारी, गैस प्रायोरिटी आक्र इम्बिया लि. दर्पण बिल्डिंग, आर. सी. दत्त रोड, बडोदरा को इस अधिसूचना की तारीख 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टता यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

एनोड बेड और केबल के लिए हजोरा—बीजापुर—जगदीशपुर—पाईप लाईन—राज्य—गुजरात जिला—पंचमहाल तहसील—हजोरा

गांव	स.नं.	हेक्टर	आर	सेंटियर
सुलतानपुरा	61	0	02	79
	62	0	06	25

[सं. भा. -14016/5/89-जे पी]

S.O. 217.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur—Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

FOR ANODEBAD AND CABLES IN HAZIRA—BIJAPUR—JAGDISHPUR

State : Gujarat	Dist. : Panchmahal	Tal. : Helol
Village	Survey No.	Hectare Are Centiare
Sultanpura	61	0 02 79
	62	0 06 25

[No. O-14016/5/89-GP]

का. भा. 218.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजोरा—बीजापुर से जगदीशपुर तक एनोड बेड और केबल के लिए गैस प्रायोरिटी आक्र इम्बिया लि. द्वारा बिल्डिंग जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी एनोड बेड और केबल को बिछाने के प्रयोजन के लिए एतद्प्रावृद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

अतः कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे एनोड बेड और केबल बिछाने के लिए आक्षेप सक्षम प्राधिकारी, गैस प्रायोरिटी आक्र इम्बिया लि. दर्पण बिल्डिंग, आर. सी. दत्त रोड, बडोदरा को इस अधिसूचना की तारीख 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टता यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

ऐनोड बेड और केबल के लिए हजिरा—बीजापुर—जगदीशपुर
पाईप लाईन—राज्य गुजरात जिला—वडोदा तहसील—वाघोडीया

गांव	स. नं.	हेक्टर	आर	सेन्टीयर
वाघोडिय	650/2	0	07	30
	651/1	0	03	60
कार्ट ट्रैक		0	00	75

[सं. भो.-14016/6/89-जी पी]

S.O. 218.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur-Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

OR ANODEBAD AND CABLES IN HAZIRA—
BIJAPUR—JAGDISHPUR

State : Gujarat Distt. : VADODRA Tal. : Waghodia

Village	Survey No.	Hectare	Acre	Centiare
Waghodia	650/2	0	07	30
	651/1	0	03	60
Cart-track		0	00	75

[No. O-14016/6/89-GP]

का. भा. 219—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में हजिरा—बीजापुर से जगदीशपुर तक ऐनोड बेड और केबल के लिए गैस प्राथोरिटी आफ इन्डिया लि. द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी ऐनोड बेड और केबल को बिछाने के प्रयोजन के लिए एतद्वाक्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय

सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

अर्थात् कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे ऐनोड बेड और केबल बिछाने के लिए आशेष सक्षम प्राधिकारी, गैस प्राथोरिटी आफ इन्डिया लि. वर्णन बिथिंग, आर. सी. दत्त रोड, वडोदरा को इस अधिसूचना की तारीख 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

ऐनोड बेड और केबल के लिए हजिरा—बीजापुर—जगदीशपुर—
पाईप लाईन—राज्य—गुजरात तहसील—जगडिया जिला—महाव

गांव	ब्लॉक नं.	हेक्टर	आर	सेन्टीयर
वाघपुरा	4	0	05	20
	7	0	02	50
	8	0	01	85
	9	0	04	10

[सं. भा.-14016/7/89-अ ए]

S.O. 219.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Hazira-Bijapur-Jagdishpur for Anode Bad and Cables in Gujarat State should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such Anode Bad and Cables, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Anode Bad and Cables under the land to the Competent Authority, Gas Authority of India Ltd., Darpan Building, R. C. Dutt Road, Vadodra-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

FOR ANODE BAD AND CABLES IN HAZIRA—
BIJAPUR—JAGDISHPUR PIPELINE

State : Gujarat Distt. : Bharuch Tal. : Zargad

Village	Block No.	Hectare	Acre	Centiare
Vaghpura	4	0	05	20
	7	0	02	50
	8	0	01	85
	9	0	04	10

[No. O-14016/7/89-G F]

का. भा. 220.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में वाघोडीया से आई पी सी एल तक पेट्रोलियम के परिवहन के लिए पाईपलाइन गैस प्राधोरिटी आफ इन्डिया द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए ए.ए.पावद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उगमें उपयोग का अधिकार प्रजित करने का अपना प्राण्य एतद्वारा घोषित किया है।

यद्यपि कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाईप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, गैस प्राधोरिटी आफ इन्डिया लि. दर्पण बिल्डिंग, भार. सी इत रोड, व मोबरा को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

वाघोडीया से आई पी सी एल पाईप लाइन

राज्य—गुजरात जिला— वडोदा तालुका—वडोदा

गांव	सर्वे नंबर	हेक्टर—भार—सेन्टीयर
एरणी	607	0-35-41
	608/2	0-36-42

[सं. ओ.—14016/8/89—जी पी.]

S.O. 220.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Vaghodia to IPCL in Gujarat State pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd. Darpan Building R. C. Dutt Road, Vadodara-5.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM VAGHODIA TO IPCL

State : Gujarat Distt. : Baroda Taluka : Baroda

Village	Survey No.	Area
Harni	607	0-35-41
	608/2	0-36-42

[No. O-14016/8/89-GP]

का. भा. 221 :— यतः भारत सरकार की अधिसूचना के द्वारा जैसा कि यहाँ सलग्न अनुसूची में विनिर्दिष्ट किया गया है और पेट्रोलियम और खनिज पाईपलाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 के खण्ड 6 के उपखण्ड (1) के अन्तर्गत प्रकाशित किया गया है, गुजरात राज्य में उक्त विनिर्दिष्ट भूमि में व्ययन स्वतः सं. हजीरा—बिजयपुर से जगदीशपुर तक पेट्रोलियम परिवहन के लिए भूमि उपयोग के अधिकार प्रजित किए गए हैं।

जैसा प्राधोरिटी आफ इन्डिया लि. से उपयुक्त नियम के खण्ड-7 के उपखण्ड (1) की धारा (I) में विनिर्दिष्ट कार्य दिनांक 16-11-87 से समाप्त कर दिया गया है।

अतः अब पेट्रोलियम पाइपलाइन (भूमि के उपयोग के अधिकार का अर्जन) नियम, 1963 के नियम-4 के अन्तर्गत सक्षम अधिकारी एतद्वारा उक्त तिथि को कार्य समाप्त की तिथि प्रविष्टित करने हैं।

अनुसूची

हजीरा—बिजयपुर से जगदीशपुर तक पाइप लाइन कार्य प्रगति

मन्त्रालय का नाम	गांव	का. भा. सं.	भारत के राजपत्र में प्रकाशन की तिथि	कार्य समाप्ति की तिथि
पेट्रोलियम और प्राकृतिक गैस विभाग	टीम्बरवा ता.:— शीनोर जिला:— वडोदरा गुजरात	4387	15-12-84	16-11-87

[सं. ओ.—14016/175/84—जी पी]

राकेश कक्कर, उप सचिव

S.O. 221 :—Whereas by the notification of Government of India as shown in the schedule appended hereto and issued under sub-section (1) of section 6 of the Petroleum & Minerals Pipeline (Acquisition of Right of User in Land) Act 1962 the right of user has been acquired in the specified in the schedule appended thereto for the transport of petroleum from d.s. Hajira—Bijapur to Jagdishpur in Gujarat State,

And whereas the Gas Authority of India Ltd. has terminated the operations referred to in clause (i) of sub-section (1) of section 7 of the said Act on 16-11-87.

Now therefore under Rule 4 of the Petroleum Pipeline (Acquisition of Right of User in Land) Rules, 1963, the Competent Authority hereby notifies the said date as the date of termination of operation to above.

SCHEDULE

Termination of Pipeline from D.S. Hajira—Bijapur—Jagdishpur

Name of Ministry	Village	S.N.	Date of publication in the Gazette of India	Date of termination of operation
Petroleum and Natural Gas	Timbarava Tal : Sinor Distt. Baroda Gujarat.	4387	15-12-84	16-11-87

[No. O-14016/175/84-GP]

RAKESH KACKER, Dy. Secy.

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 6 जनवरी, 1989

का. भा. 222.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिकारियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे की सारणी के स्तम्भ (1) में उल्लिखित अधिकारियों को, जो सरकार के राजपत्रित अधिकारियों के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारिणी नियुक्त करती है और उक्त अधिकारीगण, अपनी अपनी अधिकारिता की स्थानीय सीमाओं के भीतर, उक्त सारणी के स्तम्भ (2) में विनिर्दिष्ट सरकारी स्थानों की बाबत उक्त अधिनियम द्वारा या उसके अधीन सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और अधिरोपित कर्तव्यों का पालन करेंगे।

सारणी

अधिकारी का पदाभिधान	सरकारी स्थान का प्रवेश
1	2
1. उपक्षेत्र प्रबंधक/अधिकर्ता/परियोजना अधिकारी, साउथ ईस्टर्न कोलफील्ड्स लि. सामलेश्वरी विद्युत परियोजना, रेल स्टेशन ब्रजराज नगर, डा. लामरीजहल घाटा ब्रजराज नगर, जिला सम्बलपुर (उड़ीसा)	साउथ ईस्टर्न कोलफील्ड्स लि., बिलासपुर के या उसके नियन्त्रणाधीन सामलेश्वरी विद्युत कोयला खान के सभी स्थान और अन्य स्थान।
2. उपक्षेत्र प्रबंधक/अधिकर्ता/परियोजना अधिकारी, साउथ ईस्टर्न कोलफील्ड्स लि., लखनपुर विद्युत परियोजना रेलवे स्टेशन-बेलपहार, डा. बेलपहार जिला: सम्बलपुर (उड़ीसा)	साउथ ईस्टर्न कोलफील्ड्स लि., बिलासपुर के और उसमें नियन्त्रणाधीन लखनपुर विद्युत कोयला खान के सभी स्थान और अन्य स्थान।
3. उप-मुख्य चिकित्सा अधिकारी, साउथ ईस्टर्न कोलफील्ड्स लि., मनेन्द्रगढ़, रेल स्टेशन-मनेन्द्रगढ़, डा. मनेन्द्रगढ़, जिला—सर्गुजा, (मध्य प्रदेश)	(1) प्रादेशिक अस्पताल, मनेन्द्रगढ़ के सभी स्थान और (2) इसकी कालोनी तथा साउथ ईस्टर्न कोलफील्ड्स लि., बिलासपुर के और उसके नियन्त्रणाधीन अन्य स्थान।
4. उप-मुख्य चिकित्सा अधिकारी, साउथ ईस्टर्न कोलफील्ड्स लि., धनपुरी, रेल स्टेशन—बुरहार डा. धनपुरी, जिला शाहदोल, (मध्य प्रदेश)	(1) प्रादेशिक अस्पताल, धनपुरी और धोर (2) इसकी कालोनी के सभी स्थान तथा साउथ ईस्टर्न कोलफील्ड्स लि. बिलासपुर के और उसके नियन्त्रणाधीन अन्य स्थान।

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 6th January, 1989

S.O. 222.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in the column (i) of the Table below, being officers equivalent to the rank of the Gazetted officers of Government to be Estate Officers for the purposes of the said Act and the said officers shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of their respective jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

Designation of the officer	Categories of public premises
(1)	(2)
1. Sub-Area Manager/Agent/Project Officer, South Eastern Coalfields Limited, Samleshwari Opencast Project, Railway Station—Brajrajnagar, PO. Lamtibahal via Bajarajnagar, Dist—Sambalpur (Orissa).	All premises of Samleshwari Opencast coal mine and other premises belonging to or under the control of the South Eastern Coalfields Limited, Bilaspur.
2. Sub-Area Manager/Agent/Project Officer, South Eastern Coalfields Limited, Lakhanpur Opencast Project, Railway Station—Bulpahar, PO. Bulpahar, District—Sambalpur, (Orissa).	All premises of Lakhanpur Open-cast coal mine and other premises belonging to or under the control of the South Eastern Coalfields Limited, Bilaspur.
3. Deputy Chief Medical Officer, South Eastern Coalfields Limited, Manendragarh, Railway Station—Manendragarh, P.O. Manendragarh, District—Surguja, (Madhya Pradesh).	All premises of (1) the Regional Hospital Manendragarh and (2) its colony and other premises belonging to or under the control of the South Eastern Coalfields Limited, Bilaspur.
4. Deputy Chief Medical Officer, South Eastern Coalfields Limited, Dhanpuri, Railway Station—Burhar, PO. Dhanpuri, District—Shahdol (Madhya Pradesh).	All premises of (1) the Regional Hospital Dhanpuri and (2) its colony and other premises belonging to or under the control of the South Eastern Coalfields Limited, Bilaspur.

स्वास्थ्य और परिवार कल्याण मंत्रालय**सूचना**

नई दिल्ली, 2 जनवरी, 1989

का. भा. 223.—इस मंत्रालय की 3 अक्टूबर, 1988 की अधिसूचना का. भा. संख्या 3193 में क्रम संख्या 3 के सामने "अध्यक्ष" कैसर सोसाइटी, इंडिया, नई दिल्ली" शब्दों के स्थान पर पढ़ें :—

"द्वारा इंडियन कैसर सोसाइटी

बी-22, दर्शन अपार्टमेंट्स,

माउंट प्लेजेंट रोड,

मालाबार हिल,

बम्बई-400006"

[संख्या बी. 16011/2/88-एमई(पी जी)]

MINISTRY OF HEALTH & FAMILY WELFARE

(Department of Health)

CORRIGENDUM

New Delhi, the 2nd January, 1989

S.O. 223.—In this Ministry's Notification S.O. No. 3193 dated the 3rd October, 1988, against Serial No. 3 for the words "President Cancer Society, India, New Delhi" read :—

"C/o Indian Cancer Society,
B-22, Darshan Apartments,
Mount Pleasant Road,
Malabar Hill,

Bombay 400 006".

[No. V-16011/2/88-ME(PG)]

का. भा. 224.—इस मंत्रालय की 3 अक्टूबर, 1988 की अधिसूचना का. भा. संख्या 3193 का आशोधन करते हुए और अधिनियम भारतीय आयुर्विज्ञान संस्थान अधिनियम, 1956 (1956 का 25) की धारा 4 के खंड (ड.) के अनुसरण में केन्द्रीय सरकार एतद्वारा डाक्टर एस. सी. पाकराशि, निदेशक, इंडियन इंस्टिट्यूट ऑफ़ केमिकल बायोलॉजी, कलकत्ता को जो एक चिकित्सक वैज्ञानिक हैं और इंडियन साइंस कांग्रेस एसोसिएशन का प्रतिनिधित्व करते हैं, अधिनियम भारतीय आयुर्विज्ञान संस्थान, नई दिल्ली का सदस्य मनोनीत करती हैं।

[संख्या बी. 16011/2/88-एमई(पीजी)]

भार. के. भाट्टा, संयुक्त सचिव

S.O. 224.—In modification of this Ministry's Notification S.O. No. 3193 dated the 3rd October, 1988 and in pursuance of clause (e) of Section 4 of the All India Institute of Medical Sciences, Act, 1956 (25 of 1956), the Central Government hereby nominates Dr. S. C. Pakrashi, Director, Indian Institute of Chemical Biology, Calcutta, a non-medical scientist, representing the Indian Science Congress Association, to be a member of the All India Institute of Medical Sciences, New Delhi.

[No. V-16011/2/88-ME(PG)]

R. K. AHOOJA, Jt. Secy.

नागर विमानन तथा पर्यटन मंत्रालय**घादेश**

नई दिल्ली, 30 नवम्बर, 1988

का. भा. 225.—केन्द्रीय सिविल सेवा (वर्गीकरण नियंत्रण और अपील), 1988 के नियम 7 के उप-नियम (2), नियम 12 के उप-

नियम (2) के खंड (ख) और नियम 24 के उप-नियम (1) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए और भारत सरकार, नागर विमानन एकाग्रता की दिनांक 20 मार्च, 1987 की अधिसूचना संख्या का. भा. 1549 के साथ प्रकाशित आदेशों के आंशिक आशोधन में, जहाँ तक नियम 11 के अधीन बंध देने वाले सक्षम नियुक्ति प्राधिकारी और उक्त अधिसूचना की अनुसूची के भाग I और भाग-II के अंतर्गत प्रवीणता प्राधिकारी के रूप में नागर विमानन महानिदेशक तथा नागर विमानन उप-महानिदेशक द्वारा शक्तियों का प्रयोग किए जाने का संबंध है, राट्रपति एतद्वारा यह निदेश देते हैं कि जब तक नागर विमानन महानिदेशक और नागर विमानन उप-महानिदेशक के पद नियमित आधार पर नहीं भर लिए जाते हैं, तब तक उक्त अनुसूची के भाग-1 और भाग-2 में निर्दिष्ट पदों से संबंधित नागर विमानन महानिदेशक और नागर विमानन उप-महानिदेशक के पदों की उक्त शक्तियों का प्रयोग, यथा: नागर विमानन मंत्रालय में संयुक्त सचिव द्वारा अपने पद के साथ-साथ नागर विमानन महानिदेशक के पद का प्रभार संभाल कर और निदेशक, विमान सुरक्षा द्वारा नागर विमानन महानिदेशक के कार्यालय में नागर विमानन उपमहा-निदेशक के पद का प्रभार संभाल कर किया जाएगा।

[संख्या सी-30019/5/86-बी सी (बी ई/एस एफ एस)]

जे. भार. नागपाल, धवर सचिव

MINISTRY OF CIVIL AVIATION & TOURISM**ORDER**

New Delhi, the 30th November, 1988

S.O. 225.—In exercise of the powers conferred by sub-rule (2) of rule 7, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, and in partial modification of the orders published with the notification of the Government of India in the Ministry of Civil Aviation No. S.O. 1549, dated the 20th March, 1987, in so far as they relate to the exercise of powers of the Appointing Authority, Authority competent to impose penalties under rule 11 and the Appellate Authority under Part I and Part II of the Schedule to that notification by the Director General of Civil Aviation and the Deputy Director General of Civil Aviation in relation to the posts specified in Part I and Part II of the said Schedule shall, until the posts of Director General of Civil Aviation and Deputy Director General of Civil Aviation are filled on regular basis, be exercised by the Joint Secretary in the Ministry of Civil Aviation holding concurrent charge of the post of Director General of Civil Aviation and the Director of Air Safety holding concurrent charge of the post of Deputy Director General of Civil Aviation in the office of the Director General of Civil Aviation, respectively.

[No. C-30019/5/86-VC (VE/SFS)]

J. R. NAGPAL, Under Secy.

नई दिल्ली, 9 जनवरी, 1989

का. भा. 226.—इस मंत्रालय की दिनांक 30 जून, 1988 की अधिसूचना संख्या एबी-18013/1/88-ए. ए. के आंशिक संशोधन में और वायु नियम अधिनियम, 1953 (1953 का 27) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार राष्ट्रीय विमानन प्रशिक्षण के अध्यक्ष एयर मार्शल (सेवा निवृत्त) सी. के. एस. राजे को 30 जून, 1989 तक की अवधि के लिए श्री सी. एल. शर्मा, जिन्होंने त्यागपत्र दे दिया है के स्थान पर इंडियन एयरलाइन्स के निदेशक-मंडल में सदस्य के रूप में नियुक्त करती है।

[एक संख्या एबी - 18013/1/88 - ए. ए.]

भार. एम. भागवत, धवर सचिव

New Delhi, the 9th January, 1989

S.O. 226.—In partial modification of this Ministry's Notification No. AV-18013/1/88-AA dated 30th June, 1988 and in exercise of the powers conferred by Section 4 of the Air Corporations Act, 1953 (27 of 1953), the Central Government hereby appoints Air Marshal (Retired) C.K.S. Raje, Chairman, National Airports Authority as a Member on the Board of Directors of Indian Airlines for a period upto 30th June, 1989, in place of Shri C. L. Sharma who has resigned.

[F. No. AV-18013/1/88-AA]

R. N. BHARGAVA, Under Secy.

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 6 जनवरी, 1989

का.प्र. 227—स्थायी प्रादेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम, 1951 के नियम 434 के खंड iii के पैरा (क) के अनुसार, महानिदेशक, दूरसंचार विभाग ने आन्ध्र प्रदेश दूरसंचार सचिवालय के नागरकर्नूल, शायनगर और श्रीनगर टेलिफोन केन्द्रों; गुजरात दूरसंचार सचिवालय के मिलवाना, बलिसाना, चितल और लिलिया मोटा टेलिफोन केन्द्रों; और पंजाब दूरसंचार सचिवालय के शाहनेवाल टेलिफोन केन्द्रों में दिनांक 16-1-1989 से प्रमाणित दर प्रणाली लागू करने का निर्णय किया है।

[संख्या 5-1/88-पी.एच.बी.]

पी. प्रार. कारी, सहायक महानिदेशक

(पी. एच. बी.)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

New Delhi, the 6th January, 1989

S.O. 227.—In pursuance of para 1(a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General Department of Telecommunications, hereby specifies 16-1-1989 as the date on which the Measured Rate System will be introduced in Nagarkurnool, Shadanagar and Srinagar Telephone Exchanges under Andhra Pradesh Telecom. Circle; Bhilwana, Ballsana, Chital and Lillya Mota Telephone Exchanges under Gujarat Telecom. Circle; and Shahnewal Telephone Exchange under Punjab Telecom. Circle.

[No. 5-1/88-PHB]

P. R. KARRA, Asstt. Director General (PHB)

अस मंत्रालय

नई दिल्ली, 15 दिसम्बर, 1988

का. प्र. 228—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्दूल बैंक प्राप्ति अधिनियम के संबंध में नियोजकों और उनके कर्मचारियों के बीच, समुदाय में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 15th December, 1988

S.O. 228.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT KANPUR

Industrial Dispute No. 83 of 86

In the matter of dispute between :

Shri Kishori Lal,

287/30 Kaimkheru Alshbagh,
Lucknow.

AND

The Assistant General Manager,
Central Bank of India Regional Office,
Vidhan Sabha Marg, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/290/83-D.II(A) dated 26-5-86 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India Hazaratganj, Lucknow in terminating the service of Shri Kishori Lal, Peon w.e.f. April, 1982 is justified? If not, to what relief is the workmen concerned entitled?

2. The admitted facts are that while the workman was posted as peon at Subhash Marg Branch of the Central Bank of India (hereinafter referred to as Bank) a chargesheet dt. 25-10-79, containing the following 3 charges signed by the Chief Manager, Regional Office Lucknow, was served on him :—

A complaint dt. 13-10-78, was received under thumb impression of Smt. Rampati, complainant, that Shri Kishori Lal has misused his position as an employee of the bank and taken money by giving false promises. A memo no. 3231 dated 20-10-78 was issued in this respect and Shri Kishori Lal replied vide his letter dt. 17-1-79 stating that the complaint was false and out of malice. This explanation is not satisfactory and, therefore, Shri Kishori Lal is charged of doing acts prejudicial to the interest of the bank under para 19.5(j) of Bipartite Settlement.

2. It is complained that Shri Kishori Lal accepted Mini instalments from Shri Ramdan and Shri Harsh Bardhan for their Mini Deposit accounts with Naka Branch and misappropriated the amount of Rs. 185. His explanation was called vide memo No. RO. PRS. UHM, 8/24 dated 11-1-79 to which he has so far not replied. He is, therefore, charged of gross misconduct under para 19.5(i) of Bipartite Settlement for acting in a manner prejudicial to the bank.

3. M/s. Hardwari Lal Nand Kishore had complained that on 18-2-79 their representative Shri Govind Lal gave Rs. 195 with two electricity bill to Shri Kishore Lal for depositing the amount at the bank's branch at Subhash Marg Branch, Lucknow, where Kishore Lal was working. Shri Kishori Lal has not deposited the amount and has misappropriated same. Shri Kishori Lal's explanation was called vide memo dt. 23-7-79 issued by Subhash Marg Lucknow have not received any explanation from Shri Kishori Lal till date. Shri Kishori Lal is, therefore, charged of gross misconduct under para 19.5 (i) of Bipartite settlement for acting in manner prejudicial to the Bank.

Shri J.K.N. Singh, Divisional Manager, Gorakhpur, was appointed Enquiry Officer by the said Chief Manager. Enquiry which proceeded *ex parte* against the workman was held from 16-11-79 to 2-11-81. The E.O. gave his findings on 22-11-81. He found the first two charges as established but on charge no. 3 he gave the workman the benefit of doubt. The E.O. also proposed in his Enquiry Report punishment of discharge from service and in this regard issued a show cause notice to the workman. Final orders awarding the said punishment was passed by the Enquiry Officer on 15-4-82. Against it the said workman filed an appeal which was dismissed by the appellate authority on 18-11-82.

3. The workman has challenged the order of his discharge from service on a number of grounds. He alleges that dates for holding inquiry between 16-11-79 and 14-4-80 were fixed either on the request of the management representative or by the Enquiry Officer on his own convenience. Finally, the Enquiry was fixed for 20-4-81 on which date he made a request that since his defence representative was out of station, the enquiry be adjourned. However, his request was not acceded to by the E.O. On the next date i.e. 17-8-81, he could not attend the inquiry due to his illness even the management representative submitted his arguments on 2-11-81. Thus the Enquiry Officer did not act judicially and adopted an attitude of discrimination against him by not allowing him proper opportunity of defence. He was not allowed to cross examine the witnesses examined by the management representative. He was not even supplied the documents specially the report of the handwriting expert who was examined on behalf of the department to prove certain writings. The enquiry was thus not held in accordance with the principles of natural justice. Curiously, the E.O. who gave the findings also decided the question of punishment to be awarded to him when he was not authorised to award the punishment in view of the fact that he had been appointed as Enquiry Officer by Chief Manager R. M. Office, Lucknow and in view of the III bipartite settlement wherein the Disciplinary authority has been notified as per designation i.e. Chief Manager R. M. Office Lucknow. Lastly, the workman alleges that the order of discharge from service cannot amount to punishment. His discharge from service has been simpliciter in-as-much as he was ordered to be paid 3 months wages as per para 522(a) of Shastri Award. There was also violation of the provisions of section 25F I.D. Act. in-as-much as no retrenchment compensation was paid to him.

4. The workman has, therefore, prayed that after setting aside the order of punishment he should be reinstated in service in banks service with full back wages.

5. The defence is that the E.O. conducted the inquiry in accordance with the principles of natural justice. In fact the workman himself evaded participation in inquiry proceedings on one pretext or the other. Findings are based on admissible evidence and the order of punishment passed by the E.O. is valid. The management has also referred to two previous incidents of misconduct on the part of the workman one in the year 1974 and the second in the year 1976, during his posting at Meerut. In the former case he was awarded the punishment of stoppage of one increment and in the second case he was awarded the punishment of stoppage of 3 increments permanently.

6. In his rejoinder the workman alleges that reference to his past conduct so far as this case is concerned is quite irrelevant. No other additional facts except mere reiteration of the facts alleged in the claim statement has been alleged by him.

7. In support of his case, the workman has filed his own affidavit and a number of documents and in support of its case the management has filed the affidavit of Shri S. K. Gupta, Regional Manager, Lucknow Region and a number of documents.

8. Ext. W-1 is the copy of chargesheet dt. 25-10-79 issued by the Chief Manager Regional Manager's Office, Lucknow. In the chargesheet the names of the witness and the documents relied upon in support of the charge are not mentioned. 115 Gt/89-3.

ed. There is also nothing to show that copies of any documents or copy of statement of any witness, if examined, earlier during preliminary inquiry was supplied to the workman.

9. Ext. M-2 is the copy of findings dt. 22-11-81 given by the E.O. on the 3 charges. From the findings it appears that the management representative at the inquiry examined Shri Rampati, Surendra Kumar authorised collection and Shri Siya Ram Gupta, Hand Writing Expert. It further appears that Shrimati Rampati proved her written complaint and two letters alleged to have been written to her by the workman, Surendra Kumar proved receipts and Shri Siyaram Gupta proved his report.

10. In the circumstances before proceeding with the inquiry after service of chargesheet, the workman should have been supplied with the copies of the above documents. Having not done so, the Enquiry Officer, cannot be said to have followed the principles of natural justice. Non supply of these documents certainly caused prejudice to the workman.

11. From Ext. M-2, which is the copy of the inquiry report dt. 22-11-81, it is evident that the Enquiry Officer himself proposed the punishment of discharge from service, in respect of charge No. 1 and charge No. 2. It is admitted case of the parties that it was the Enquiry Officer, who awarded the punishment of discharge from service to the workman. How the Enquiry Officer, who was appointed by the Chief Manager as Enquiry Officer became competent to award punishment has not been explained by Shri Rakesh Tondon, authorised representative for the management, during the course of his arguments. The fact that the chargesheet was issued by the Chief Manager and Shri J. K. N. Singh, was appointed as Enquiry Officer by him (Chief Manager) the Enquiry Officer could not be the disciplinary authority.

12. In this connection I would further like to refer IIIrd Bipartite Settlement dated 1st August, 1979, which modified to some extent procedure to be adopted in disciplinary proceedings it provides that Chief Executive Officer or the Chief Officer in India of the Bank or an alternate officer at the Head Office or principal office nominated by him for the purpose shall decide which officer (i.e. Disciplinary Authority) shall be empowered to take disciplinary action in the case of each office or establishment. He shall also decide which officer or body higher in status than the officer authorised to take disciplinary action shall act as the appellate authority to deal with or hear and dispose off any appeal against orders passed in disciplinary matters. These authorities shall be nominated by designation to pass original orders or hear and dispose off appeals from time to time and a notice specifying the authorities so nominated shall be published from time to time on the notice board. From the side of the management no attempt has been made to show as to who will be the disciplinary authority and who will be the appellate authority in a case like the present one. As such in my view how the Enquiry Officer, who has been appointed by another officer equal in rank could award punishment to the workman and the order passed by him is therefore, illegal, as the inquiry was not held fairly and properly.

13. During the course of his arguments Shri Rakesh Tondon, authorised representative for the management has referred to the past conduct of the workman showing how he had been awarded punishment on two previous occasions but all this becomes irrelevant in view of the illegality of the order of punishment. He has also referred to the conduct of the workman during inquiry proceedings stating that he always tried to evade the inquiry proceedings. There appears to be force in it as will appear from copies of a number of documents such as Ext. W-2, W-4, W-6 to W-18. The conduct of the workman cannot be appreciated. But this too cannot make the illegal order as legal.

14. Hence, it is held that the action of the management of Central Bank of India, Hazratganj, Lucknow in terminating the services of Shri Kishor Lal, Peon w.e.f. April, 1982, is not legal and justified. Accordingly the workman is reinstated with continuity of service and with full back wages.

15. The management will be at liberty to proceed against the workman on the same charges in accordance with law.

ARJAN DEV, Presiding Officer

[F. No. L-12012/290/83-D.II(A)]

नई दिल्ली, 9 जनवरी, 1989

का.प्र. 229 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के संघर्ष को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-89 को प्राप्त हुआ था।

New Delhi, the 9th January, 1989

S.O. 229.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the United Bank of India and their workmen which was received by the Central Government on the 4th January, 1989.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL (CENTRAL) AT AHMEDABAD

Reference (ITC) No. 6 of 1984

ADJUDICATION

BETWEEN

United Bank of India, Ahmedabad.

AND

The workmen employed under it.

In the matter of denying posting to Shri S. V. Mishra, Sub-staff from its New Cloth Market Branch, Ahmedabad to Ashram Road Branch, Ahmedabad.

APPEARANCES:

Shri M. J. Sheth, Advocate—for the Bank.
Shri A. J. Trivedi—for the Union.

AWARD

This industrial dispute between United Bank of India, Bombay at Ahmedabad and the workmen employed under it has been referred to me for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947, by the Government of India, Ministry of Labour and Rehabilitation's No. L-12012/218/83-D. II(A) dated 6th February, 1984.

2. The dispute relates to a single demand which is as under :—

"Whether the action of the management of United Bank of India, Regional Office, Western Region, Bombay in denying posting to Shri S. V. Mishra, Sub-staff from its New Cloth Market Branch, Ahmedabad to Ashram Road Branch, Ahmedabad, is justified? If not, to what relief is the workman concerned entitled?"

3. The brief facts of the case are as under :—

The United Bank of India, Bombay had issued a Circular letter No. ADM/M-155/10720 dated 8th December, 1981 inviting options from members of clerical and subordinate staff for posting to the proposed branch at Ashram Road, Ahmedabad. The last date for the receipt of such options was 17th December, 1981. One Shri S. V. Mishra working as sub-staff at New Cloth Market, Ahmedabad had opted in the

prescribed form and the same was received by the Regional Office at Bombay on the last date i.e. on 17th December, 1981. However, on 19th March, 1982 the Regional Office of the Bank informed Shri S. V. Mishra that they were unable to record his prayer for transfer as no specific reply was given as to whether he was agreeable to forego the special allowance on transfer, if any. The Union has submitted that Shri S. V. Mishra was not in receipt of any special allowance at Bank's New Cloth Market Branch as specified in Bipartite settlements and, therefore, the question of foregoing the special allowance did not arise and hence it is not necessary to write accordingly. The Bank has contended that it was the stipulation that the application received by the Regional Office should be duly filled-in in the prescribed form and if it was not found properly filled-in, it would be straight-away rejected.

4. Shri M. J. Sheth, the learned Advocate for the Bank and Shri A. J. Trivedi for the Union argued the matter.

5. From the record of the case and the arguments of the learned Advocates, the short question involved in this case is whether the action of the Bank in rejecting the option form of Shri S. V. Mishra for transfer to Ashram Road Branch, Ahmedabad was legal and valid? From the copy of the letter of the Bank No. ADM/Optees/2552 dated 19th March, 1982 it appears that the option form of Shri S. V. Mishra was rejected as no specific reply was given as to whether he was agreeable to forego the special allowance on transfer, if any. As per the written statement it is the case of the Bank that Shri Mishra was expected to state "yes" or "no" indicating as to whether he was agreeable to forego the special allowance on transfer or not. In the application form submitted by Shri Mishra, he did not indicate as to whether he was prepared to forego the special allowance on transfer. The Bank, therefore, begs to point out that since the application received from Shri Mishra was not properly filled-in as was required, his application was not considered and straight away rejected. Now, neither from the Circular No. ADM/M-155/10720 dated 8th December, 1981 nor from the option form Ex. 8/2 it appears that such a stipulation was thereto to the effect that the application received by the Regional Office should be duly filled-in, in the prescribed form and that if it is not found properly filled-in, it would be straight away rejected. Further, from the letter No. EST/SVM/32/03/82 dated 5th March, 1982 Ex. 8/4 it is clear that New Cloth Market Branch of the Bank had already informed the Regional Manager of the Bank at Bombay that Shri S. V. Mishra was not drawing any special allowance but was drawing cycle allowance permanently for doing outdoor duties. This shows that even if Shri Mishra had not written "yes" or "no" as argued by the Bank, the purpose is now served when before deciding on the application, the Bank knew that Shri Mishra was not drawing any special allowance and, therefore, there was no question of foregoing the same. In spite of this, the Bank rejected the option form of the workman concerned on 19th March, 1982 on the ground that no specific reply is given as to whether he was agreeable to forego the special allowance on transfer, if any. Thus the Bank has taken very technical view of the matter without looking to the information which was wanted was already there on its record and without looking to the fact that the workman concerned was from a sub-staff and, if there was any lapse on his part, it should not be viewed so seriously. Therefore, the action of the Bank in rejecting the option form of the workman concerned by its letter No. ADM/Optees/2552 dated 19th March, 1982 is not legal and proper.

6. In the result I hold that the impugned action of the Bank was not justified. It is, therefore, directed that the workman concerned should be given option for transfer to Ashram Road Branch of the Bank if he is otherwise eligible as per Circular No. ADM/M-155/10720 dated 8th December, 1981, and he should also be compensated by paying him the difference to what he had drawn if he was transferred and what he received here. Considering the facts of this case I also direct the Bank to pay Rs. 200 to Shri Mishra by way of costs.

G. S. BAROT, Presiding Officer

[No. L-12012/218/83-D. II(A)]

Ahmedabad,

Dated : 29th November, 1988.

नई दिल्ली, 10 जनवरी, 1989

नं. अ. 230—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिन्डिकेट बैंक के प्रबंधन के संबंध निगोशकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-89 को प्राप्त हुआ था।

New Delhi, the 10th January, 1989

S.O. 230.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the Syndicate Bank and their workmen, which was received by the Central Government on the 3rd January, 1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated : 28th December, 1988

Central Reference No. 44/88

I PARTY:

Shri T. Yesudas, 219/103,
Chikkabanaswadi Extension,
Bangalore.

Vs.

II PARTY:

D.G.M. Syndicate Bank,
Zonal Office, 1R Cell
Gandhinagar,
Bangalore-560009.

APPEARANCES :

For the I Party—Shri N. G. Phadke, Advocate.

For the II Party—Shri S. Anantha Rama Reddy, Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the Industrial Disputes Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-12012/267/88-D.II(A) dated 26th August, 1988.

POINT OF DISPUTE

"Whether the action of the management of Syndicate Bank in dismissing from service Shri T. Yesudas is justified? If not, to what relief is the workman entitled?"

2. The I party workman has filed his claim statement and his statements in brief are as follows:

The I party workman is an ex-serviceman and he has served in the Indian Army for 12 years and 63 days. He got discharged on compassionate grounds on 25th May, 1984. From 7th December, 1974, he joined the second party as an attender. He apprehended danger to his life by his creditor and he had no other choice, then to withdraw a sum of Rs. 10,500.00 from the account of a customer and paid the same to his creditor. He has credited the amounts of the respective accounts upto date and with interest. He voluntarily accepted the guilt. The second party has dismissed him from service by order dated 15th December, 1987. He prays that the order of dismissal may be reconsidered on compassionate grounds. His service to the nation, his age, family back ground and his voluntary acceptance of the guilt may be taken into account. No loss has been caused to the bank. The punishment is harsh. Provisions of section 11A of

the Industrial Disputes Act may be invoked. The order of dismissal may be set aside and appropriate relief may be granted.

3. The management has filed its counter statement and inter alia it is contended as follows:

It is not within the knowledge of the second party that he served in the Indian Army for 12 years and 63 days, or got discharged on 25th May, 1974, on compassionate grounds. He was working as an attender in the II party. He was chargesheeted and kept under suspension in 1987 for the misconduct of fraudulent withdrawal of monies from the accounts of saving bank account-holders. He resorted to forgery and tampering of records, while committing fraud. The fraud came to light when the customers who were the victims, complained about it. After that he has admitted to his guilt. It is true that he has credited the amounts to the respective accounts. It is not true that he has voluntarily admitted to his guilt. Since the misconduct was supported by evidence, the second party was justified in not reconsidering about the order of dismissal. The enquiry conducted by the second party is proper. The second party is justified in dismissing from service. There are no grounds to exercise the powers under section 11A of the Industrial Disputes Act.

4. An additional issue was drawn up as follows:

"Whether the second party proves that it has held the domestic enquiry in accordance with law?"

5. On 7th November, 1988 the second party filed a list with six documents. All these documents have been taken on record.

6. The learned counsel for the first party submitted that the first party does not intend to challenge the validity of the domestic enquiry and that he intends to examine the workman to show about the circumstances which call upon this court to exercise its discretion under section 11A of the Industrial Disputes Act so as to impose some lesser punishment and order for reinstatement of the workman.

7. In view of the aforesaid submitting, when the matter was called on 12th December, 1988, the learned counsel for the second party submitted that the second party has no evidence.

8. WW-1, the workman has examined himself and Exs. W-1 and W-2 have been got marked.

9. The second party has filed his written argument.

10. The learned counsel for the first party was heard.

11. My finding on the point of reference is as follows:

The management of the Syndicate Bank was not justified in dismissing Sri. T. Yesudas and that he is entitled to the relief shown below.

REASONS

12. The learned counsel for the I party submitted that the first party workman has admitted to his guilt and that his only plea is for mercy, to reinstate him, by exercising the powers under section 11A of the Industrial Disputes Act. The list of documents dated 7th November, 1988 filed by the second party shows that one Appanna S/o Hanumantharayappa gave an application to the branch manager that when he approached the bank on 26th November, 1986 for drawing a sum of Rs. 1,000 the concerned officer of the bank told him that just yesterday he had drawn some amount and how is it that he had approached the bank for drawing some more amount. The said account holder has further stated that on 5th November, 1986, he never approached the bank and did not draw any amount and he volunteered to produce his pass book. Accordingly he had produced his pass-book. The second document is a complaint dated 8th January, 1987 given by one Muniswamy and he has complained that on 16th October, 1986 he did not draw any amount of Rs. 2,000 and that on 28th November, 1986 he has not credited the sum of Rs. 2,000. The third document is a complaint dated 26th November, 1986 by one Sundar Raj. It is in Tamil, but the English translation is enclosed to the same. He has stated that on 25th November, 1986 the first party workman Dass had given token No. 13 and that he asked him to receive Rs. 3,500, since he had to go elsewhere and at his

instance he took that amount and gave it to the first party Dass. The fourth document of the list is the written statement given by the first party Yesudas to the manager of the Bank. There-in he has admitted that he had drawn the following amounts from the accounts indicated therein.

- (a) SB a/c of Appana a/c 7703
6-11-86 W/S No. 527365 Rs. 1500.00
12-11-86 W/S No. 527517 Rs. 3500.00
25-11-86 W/S No. 527758 Rs. 3500.00

- (b) SB a/c of C. Muniswamy 8117
16-10-86 W/S No. 526923 Rs. 2000.00

He has further stated that he had copied the signatures of these parties and on that basis he had made their signatures. He further stated that he should be excused and he has promised to credit all the amounts with interest. The 5th document is the charge-sheet issued to him. It is marked as Ex. M-1. It is dated 12th June, 1987. The order of dismissal is at Ex. M-2, dated 15th December, 1987. The charge-sheet Ex. M-1 describes that the modus operandi adopted by him for taking the said amounts from the various accounts. The disciplinary authority has taken into account the gravity of the misconduct committed by him and has held that the punishment of dismissal is the proper one. It is observed that he has indulged in acts which are prejudicial to the interest of the bank, and that the order of dismissal is the proper one.

13. In the written argument submitted by the second party it has been stated that in 1979, he had mis-appropriated a sum of Rs. 935 while working in the Sadashivanagar branch and a lenient view was taken and he was punished with stoppage of two increments. In para 10 of his evidence the first party has admitted about the said misconduct. The written argument shows that in 1983 he was again charge-sheeted for misconduct and punishment of warning was given to him. As regards the submission of the first party to modify the punishment of dismissal, the management has contended that being a trained person in the Indian Army, the first party ought to have worked in a more diligent manner, but he has mis-used the trust reposed in him. The second party has relief upon the case of the East India Hotels Vs. their workmen (AIR 1974 Supreme Court page 696). The authority is on the point that the Tribunal has no jurisdiction to sit in judgement over the decision of the employer as an appellate body. It has been further held that the interference in the decision will be justified only under certain circumstances. One of the circumstances shown is that if the Tribunal finds that the punishment is harsh, it may interfere.

14. The second party has further relied upon the decision of workman of FTR and company Vs. the management (AIR 1973 Supreme Court page 1227). The authority states that section 11A empowers the Tribunal to interfere with the punishment and alter the same, depending upon the facts and circumstances of the case.

15. Ex. M-1, the charge sheet is dated 12th June, 1987. Even before the charge sheet was issued to the first party employee, he had admitted about the guilt in his letter dated 29th November, 1986 marked as MEX. 11, by the enquiry officer. It is not the case of the management that before the enquiry officer, the employee ever denied the charges. It is only their case that he did not disclose about the misconduct before the respective account holders made their complaints. Clause 19.12(e) of the bipartite settlement shows that in certain circumstances the bank has powers to dispense with the enquiry, if it is of the opinion that there need not be a punishment of discharge or dismissal. It appears that in the present case the management did not think it fit to press into service the provisions of 19.12(e).

16. The learned counsel for the first party strongly contended that the Tribunal may take into account his long service in the Indian Army that he is still a young man and being unemployed, he may not be exposed to the bad elements of the society and that he may kindly be provided with some means of livelihood. It was submitted that the fact that he has admitted to his guilt at the earliest, should weigh in his favour. In my view since the present misconduct dealing with the monies of the customers of the bank or meddling with the business of the bank is a repetition of an earlier misconduct of a similar nature and since the second party is a banking institution, the business of which mainly

depends upon the integrity, honesty of its employees it cannot be said that it is a fit case to order for reinstatement to any post. In my view taking into account the aforesaid circumstances, pleaded by him, the punishment of discharge would meet the ends of justice and in that event he will be getting the terminal benefits and with such a nucleus he may make himself gainfully employed. In my opinion under the facts and circumstances of the case, the punishment of dismissal is harsh and it requires to be substituted by that of discharge.

17. In the result, an award is passed to the effect that the management of Syndicate bank was not justified in dismissing Sri. T. Yesudas from its service. Since the management has proved the misconduct committed by the workman, and since the workman had proved that it is a fit case to modify the order of dismissal, it is ordered that the management shall substitute the order of dismissal by an order of discharge and shall pay and give him all the consequential benefits.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer

[No. L-12012/269/88 D.II(A)]

का. मा. 231—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सन्दर्भ बैंक आफ इंडिया के प्रबंधकों के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 231.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI ARIJAN DEV PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR U. P.

Industrial Dispute No. 94 of 1986.

In the matter of dispute between :

Shri Mani Ram,
S/o. Shri Maiku Lal,
House No. 103/22,
Karnelganj,
Kanpur U. P.

Workman/Petitioner.

AND

The Regional Manager,
Central Bank of India,
117/H-1/240 Pandu Nagar,
Kanpur U. P.

Management/Opp. Party.

APPEARANCE :

Shri V. N. Sekhari authorised representative—for the Workman.

Shri Rakesh Tondon authorised representative—for the Management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/218/85-D.II(A), dated nil of 1986, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank Of India, in terminating the services of Shri Mani Ram, temporary peon and not considering him for

further employment while engaging fresh hands is justified? If not to what relief the concerned workman is entitled and from what date?

2. The workman's case in short is that the service conditions of the Bank employees including the employees of the Central Bank of India are governed by Shastri Award, Desai Award and various Bipartite settlements.

3. The said bank started a practice of appointing temporary employees for performing duties of regular and permanent nature instead of regular employees in order to deprive such employees from being absorbed in regular service of the bank enabling them to reap the benefits of the aforesaid awards and settlements. In pursuance of the said practice the workman was employed as peon, on the sponsoring of his name by Employment Exchange from 16-8-81 to 7-10-82 and then from 26-12-83 to 12-5-84. Thus during the first period he worked for 93 days and during the second period he worked for 132 days total 225 days, which was of course with breaks. According to him he was not issued any appointment letter nor any letter of termination. He was also not given any notice or pay in lieu of notice besides compensation. At the time of termination of his services, he was not the junior most workman. He was also not provided with fresh employment when fresh hands were employed after the termination of his services. In this way the Bank violated the provisions of section 25G and 25H I.D. Act. besides violating the provisions of para 493, 495, 507, 516, 518, 519 and 524 of Shastri Award, as well as of section 9, 12 and 19 of U. P. Shops & Commercial Act. The bank also violated the provisions of articles 14, 16 and 21 of the Constitution. In the circumstances, he is entitled to reinstatement with effect from 8-10-82 with continuity of service and other benefits.

4. The case is contested by the management. The management pleads that Shri Mani Ram was engaged temporarily in leave arrangements in various branches of the bank in Kanpur Region as sub staff between 16-8-81 and 7-10-82, as shown in para 16 of the written statement and then from 9-12-83 to 5-5-84. During the first period he worked for 88 days and during the second period he worked only for 16 days in the Chamanganj Branch of the Bank at Kanpur. He was never appointed on probation or in regular service of the bank. No question of termination was involved in his case as his engagement/appointment came to an end by efflux of time. Since he did not work continuously for 240 days in 12 calendar months he is not entitled to claim benefit under section 25F I.D. Act. Temporary engagement/appointment does not create a right in any such employee for permanent post just because he had worked for some time in the bank. His case is a case of back door entry in the bank's service which is violative of Government Directives. He could have appeared for permanent absorption in written test/interview, if he fulfilled the eligibility criteria.

5. In his rejoinder it has been alleged by him that he was not a temporary employee in terms of the definition of temporary employee as given in paras 20.7 and 20.8 of the Bipartite Settlement. No new fact has been alleged by him in the rejoinder.

6. In support of its case, the management has filed the affidavit of Shri V. K. Bhandari, Regional Manager, and in support of his case, the workman has filed his own affidavit and a few documents.

7. In order to determine for how many days the workman had worked during the two spans i.e. from 16-8-81 to 7-10-82 and from 9-12-83 to 12-5-84, a joint inspection report was filed by the parties on 14-1-88.

8. It is admitted to the management that the name of the workman Shri Mani Ram was called from the Employment Exchange. According to the management his name was called from the Employment Exchange with a view to engage him temporarily in leave arrangements in various branches of the bank in Kanpur Region as sub staff. In his cross examination the workman has admitted that whenever any peon from any branch went on leave, he used to work in his place.

9. As to for how many days the workman has worked during the said two periods, the workman's case is that during the first period he had worked for 93 days and during the second period he had worked for 132 days. On the

other hand, the case of the management is that during the first period he had worked for 88 days and during the second period which according to the management was upto 5-5-84, the workman had worked only for 16 days. In para 16 of its written statement, the management has given the dates with number of days on which the workman had worked in different branches of the Bank in Kanpur Region from 16-8-81 to 7-10-82.

10. The joint inspection report shows that from 9-12-83 to 12-5-84, the workman had worked only for 22 days. It further shows that during the first span he had worked from 5-7-82 to 8-7-82 i.e. for 4 days, from 22-10-81 to 24-10-81 i.e. for 3 days and 18-1-82, 20-1-82 and 21-1-82 for 3 days. It appears that this latter part of the inspection report was with regard to check the correctness of the details given by the management in para 16 of its written statement.

11. Ext. W-1, is the copy of letter dt. 26-7-85, from the workman to the ALC(C) Kanpur. With it is annexed a statement showing dates and the number of days on which the workman had worked during the first span. The receipt of this letter has been admitted by the management's authorised representative. It shows that in B. O. Bithur the workman had worked from 22-10-81 to 24-10-81 whereas in para 16 of the written statement he is shown to have worked only on 22-10-81 and 23-10-81 i.e. for 2 days. On joint inspection it was found that he had worked on 22-10-81, 23-10-81, and 24-10-81. Again in the statement annexed with workman's application dt. 26-7-85 it is given that he had worked in Branch Office UPSIDC for 4 days from 18-1-82 to 21-1-82 whereas in the statement given by the management in para 16 of the written statement he is shown as having worked in the said branch from 18-1-82 to 20-1-82 i.e. for 3 days. On joint inspection it was found that he had worked for 3 days but on dates 18-1-82, 20-1-82 and 21-1-82. Thus there is no difference so far as the number of days of work shown by the management in the statement in para 16 of the written statement. Lastly, in his said statement the workman has shown that he had worked for 4 days at B. O. Karanchikhana Kanpur from 5-7-82 to 8-7-82 whereas in the statement given in para 16 of the w.s. he is shown to have worked in the said branch only on 5-7-82. The joint inspection report shows that in the said branch he had worked from 5-7-82 to 8-7-82 i.e. for 4 days. The other figures tally. It follows therefore, that during the first span the workman had worked for 92 days.

12. In para 3 of his affidavit, the workman has made averment that from 16-8-81 to 12-5-84 he had worked for 225 days. He had been paid wages for 136 days in his own name and for the remaining days in the names of others. We have seen above that he had simply worked for 92 days and 22 days i.e. for a total period of 114 days and not for 225 days. Moreover, it is not the case in the claim statement or in the rejoinder that he had been paid wages for other days in the names of others. As such no reliance can be placed on it. It is nothing but an after thought.

13. The workman has come up with the case that at the time of termination of his service he was not the junior most. He has supported this fact by his affidavit. But nowhere he has given the names of the persons who were junior to him at the time of termination of his services. The statement which is annexed to his application dt. 26-7-85, copy ext. W-1, and the statement given by the management in para 16 of its w.s. show that the workman never worked continuously for more than 4 days at a stretch at one branch nor even in two or more branches taken together. Mostly, during the above two periods he had worked for a day or two in one branch or the other and occasionally for 3 or 4 days. Thus the evidence in this regard from the side of the workman is neither reliable nor convincing. It cannot, therefore, be held that he was not the junior most when his services were terminated by the management.

14. Shri V. K. Bhandari, the management witness, who admits to have joined as Regional Manager Kanpur, in July 1986, has deposed on the basis of the records that no appointment letter was ever issued to the workman. He also admits that even no termination letter was issued to him. He further admits that no seniority list or register of temporary employees was maintained in the bank.

15. In para 3 of his affidavit which was filed in reply to the workman's application dt. 24-8-87, for summoning

certain documents and seeking information on some points he has made the averments that there is no practice of maintaining such seniority list in respect of temporary employees. Then he has admitted in his cross examination that after the termination of services of the workman, in exigency of work temporary hands were appointed. He has even admitted that after 7-10-82, and also after 12-5-84, new branches of the bank have been opened and in the said branches sub staff and temporary hands were appointed. Thus the following facts stand proved from the evidence of the parties :—

1. That the workman's name was called by the Bank from the Employment Exchange;
2. That the workman worked in the leave vacancies of sub staff in the various branches of the bank in Kanpur Region intermittently and did the work which regular sub staff in whose places he was engaged were doing from 26-5-83 to 12-5-84 for 22 days and from 16-8-81 to 7-10-82 for 92 days;
3. That the workman was never issued any appointment letter nor he was given any letter of termination;
4. That the bank has not maintained any register of temporary employees nor ever prepared any seniority list in respect of such employee;
5. That after the termination of services of the workman in exigencies of work temporary hands were appointed by the bank;
6. That after 7-10-82 and 12-5-84 some new branches were opened by the bank in Kanpur Region and in said branches sub staff and temporary hands were appointed and;
7. That the workman was not the junior most, when his services were terminated.

16. Shri V. N. Sekhari, authorised representative for the workman has urged the following points for the consideration of the tribunal in connection with this case :—

- (i) That the workman having been employed as relieving hand, cannot be treated as temporary hand within the meaning of para 20.7 of the First Bipartite Settlement and even assuming that he was a temporary workman, he was entitled to be taken on probation,
- (ii) That the management instead of filling up the vacancy where the workman was employed within a period of 3 months terminated him services mala-fide,
- (iii) That the management violated the various provisions of Shastri Award as modified by the provisions of various Bipartite settlements in as much as instead of appointing regular staff on probation, the bank adopted the illegal and unfair labour practice of appointing temporary hands for doing duties of permanent nature,
- (iv) That the management violated paras 493, 495, 516, 522 and 524 of the Shastri Award;
- (v) That termination of service of the workman amounts to retrenchment within the meaning of section 2(70) I.D. Act. Since the workman was not the junior most at the time of his retrenchment, the order of retrenchment is illegal in view of the mandatory provisions of section 25G read with rule 77 Industrial Disputes Rules (C) 1957 and even assuming that he was the junior most since temporary hands were kept subsequent to his retrenchment, he is entitled to be absorbed in a permanent vacancy and to under go probation in view of para 20.12 of the 1st Bipartite Settlement and mandatory provisions of section 25H read with rules 78 of the aforesaid rules. Sec. 25G is independent of section 25F and in view of section 25J the provisions of sec. 25G & 25H have an overriding effect and any thing inconsistent contained in any other law including standing orders made under the Industrial Employment (Standing Orders) Act, 1946, cannot be given effect to.

17. Let us consider the above points one by one seriatim.

18. Point No. I.—Para 20.7 of the First Bipartite Settlement defines the term "Temporary Employee". According to this definition a temporary employee will mean a workman who has been appointed for a limited period for work which is of an essentially temporary nature or who is employed temporarily as an additional workman in connection with a temporary increase in work of a permanent nature and includes a workman other than a permanent workman who is appointed in a temporary vacancy caused by the absence of a particular permanent workman. From the findings recorded above that the workman was simply engaged to work in place of a regular sub-staff whenever any member of regular sub staff went on leave shows that his position was no better than that of a casual workman. At the best his case falls in the last category of the definition of temporary employee which reads as;

"includes a workman other than a permanent workman who is appointed in a temporary vacancy caused by the absence of a particular permanent workman".

19. Para 508 of the Shastri Award defines the term Probationer. According to it "probationer means, an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service".

20. I, therefore, fail to understand how in the circumstances of the case the workman can claim to be taken as a probationer.

21. In support of his submission on this point Shri Sekhari, has placed reliance on the following two rulings;

(i) Jaswant Sugar Mills Vs. Badri Prasad (1961) 111 J 649 (SC).

(ii) Suresh Narkar Vs. Food Corporation of India 1984 Lab. IC 267 (Bombay).

I have gone through these two rulings. In the first ruling the definition of "Permanent Workman" as given in the Standing Order was considered and in the second case the definition of casual workman as given in Mode Standing Order No. 3 of Food Corporation of India was considered and as such these rulings bare no resemblance to the facts of the present case, and are thus in applicable.

22. Therefore, in the first point urged by Shri Sekhari I find absolutely no force.

23. Point No. II.—The point raised by Shri Sekhari, authorised representative for the workman seems to be misconceived. It is not the case of either side that there was a permanent vacancy in any branch of the bank in Kanpur Region and the workman was appointed to fill up the said vacancy. Therefore, this point too is decided against the workman.

23. Point No. III.—There also appears to be no force in the point raised. As already said the workman was not appointed to fill up any vacancy of permanent nature even temporarily. Rather the appointment was that he would work in short leave vacancies. The facts of the case go to show that the bank had been quite considerate to the workman as it had held the workman by giving him some work when otherwise he would have set idle in his house. The point is decided accordingly.

24. Point No. IV :

Para 493 of the Shastri Award made a suggestion to banks that banks, in their own interest should, in case of a reasonable number of vacancies, should advertise them and then make appointments after passing the candidates though such tests as they may consider necessary. The bank should also maintain registers of candidates in which their names, ages, qualifications, previous experiences, if any, and special merits and recommendations should be entered, and such registers should be revised periodically and kept upto date. Such registers should also have the names of retrenched and temporary employees whose work has been found to be satisfactory. It is thus clear that it was a mere suggestion to the banks in the interest of the bank and not a mandatory recommendation/requirement. The case of the workman does not fall

within the first clause. At the best his case falls in the second clause which shows that such a register should also have the names of retrenched and temporary employees whose work has been found to be satisfactory. So if no such register has been maintained by the bank that will not in any way given an edge to the workman's case over the bank's case.

25. Para 495 of the Shastri Award is with regard to the period of probation. In this connection it was observed that the Shastri Award fixed the period of probation at six months, which in certain cases would be extended by 3 months. The members of the Tribunal which gave the Award agreed with the said directions and directed that ordinarily the period of probation should not exceed 6 months. We have seen above that in the present case the workman was not appointed on probation to fill up a permanent vacancy or a vacancy arising out of temporary increase in work. Hence the argument that there has been breach of para 495 of the Shastri Award has no legs to stand upon.

26. Para 516 of the Shastri Award refers to maintenance of service books. It was laid down that in case of every employee except one who is engaged on a part-time basis, whether he is a temporary employee, a probationer or a permanent employee, a service book should be maintained, containing particulars, such as, names, date of birth, identification marks, entry into service as a temporary employee of probationer, confirmation or permanent appointment pay on such occasions, promotions, pay on promotions, disciplinary action, if any, taken, any remarks about efficiency or character made by the superiors, leave taken etc. etc.

27. It appears that the bank has not maintained any such service books in respect of temporary employees. Non maintenance of such service books in respect of temporary employees is a mere irregularity. If according to the workman such an irregularity constitutes some offence, he may take up the matter in a criminal court u/s. 29 I. D. Act read with section 34 of the I. D. Act.

28. Now I come to para 522 of the Shastri Award. Although Shri Sekhari has not pointed out the specific sub paras I think that he may be having in contemplation sub paras (4) and (5) of it.

29. Sub para (4) is to the effect that the service of any employee other than a permanent employee or probationer may be terminated, and he may leave service, after 14 days notice. It means that no notice is required from the side of the bank for terminating the service of the temporary employee. Rather it shows that if a temporary employee intends to leave service, he will have to give 14 days notice to the management.

30. Sub para (5) provides that an order relating to discharge or termination of service shall be in writing and shall signed by the manager and a copy of such order shall be supplied to the employee concerned. So far as the facts of this case are concerned it is quite immaterial even if no order of termination in writing was given to the workman. From the facts and circumstances of the case it is quite evident that his engagement was purely in leave vacancies of short periods. He knew that as soon as the permanent workman would resume duty his services would automatically come to an end.

31. Lastly we come to para 524 of the Shastri Award.

The relevant portion of this para reads as under :

We have already provided for gratuity being given in the case of termination of service of a workman who has put in 10 years service and more. For other cases we direct that compensation should be paid on the following scale :

- (1) Temporary employees who are engaged for indefinite periods would be entitled to one month's pay and allowances. However, temporary employees who are engaged for definite periods which have been been mentioned in their appointment letters no compensation will be payable.

The present workman was not a temporary employee who had been engaged for an indefinite period. The engagement was practically for definite periods and as such he was not entitled to claim any compensation.

32. Therefore, after a careful consideration of the above paragraphs of the Shastri Award, I am of the view that there is for all intents and purposes, no substance in this point. The point is decided accordingly.

33. Point No. V :

On this point Shri Sekhari, authorised representative for workman, has placed reliance on a number of rulings :

1. J. K. Iron and Steel Com. Vs. Its workmen 1960 II LJ 64 (SC).
2. National Iron and Steel Comp. Vs. State of West Bengal and another 1967 II LJ 23 (SC).
3. Navbharat Hindi Daily Nagpur V. Navbharat Shramik Sangh 1984 Lab. IC 445 (Bom.).
4. Shri Gaffar and others V. Union of India 1984 Lab. IC 645 (Patna).
5. Shri Malkhan Singh V. Union of India 1981 Lab. IC 1633 (Delhi).
6. Shri Abdul Rehman and others V. Div. Suptd. S. Railway 1981 Lab. IC 217 (Kerala).
7. Workmen of Subong Tea Estate V. Subong Tea Estate and Others 1964 LJ 333 (SC).
8. Shri Ram Bechan V. General Manager, NER, Gorakhpur 1981 Lab. IC 1196 (Alld.).
9. British India Corporation V. Labour Court 1978 Lab. IC 523 (Alld.).
10. Shri Kunjan Bhaskaran and others V. S. D. O. Telegraphs 1983 Lab. IC 135 (Kerala).
11. Srivastava (S. P.) V. Bharat Electric Light and Power Co. Ltd., 1970, I LJ 394 (Alld.).
12. Muller and Phipps Pvt. Ltd. Vs. Their Employees Union, 1967, II LJ 222 (Punj. and Haryana).
13. Shri Kamlesh Singh V. Presiding Officer and others 1987 SCC (Lab.) 75.
14. Cawnpore Tannery Ltd., Kanpur V. Guha (S) and others 1961, II LJ (SC) 110.
15. Doddappa V. State of Mysore and others 1968, I LJ, 794 (Mysore).
16. Shri Bhawanlal and others V. RSRTC and others 1984 Lab. IC 1794 (Raj.) (Full Bench).
17. Shri Soni V. RSMDC, 1986 Lab. IC 468 (Raj.).
18. Shri Jarnail Singh V. State of Punjab 1986 Lab. IC 1086 (SC).
19. Smt. Keeta Mukherjee V. UPFC 1987 Lab. IC 778 (Alld.).
20. M/s. Swarup Vegetables and others V. State of U.P. and others 1987 Lab. IC 1286 (Alld.).

34. On the other hand it has been argued by Shri Rakesh Tondon, the authorised representative for the management, that he does not dispute the mandatory nature of section 25-G and 25-H of the I. D. Act and Rules 77 and 78 of the I. D. (Central) Rules, 1957, but the provisions of these two Sections read with these two Rules apply to a workman who had been in continuous service for not less than one year. In the instant case the workman does not satisfy the conditions as said down in the said two Sections and Rules. He has even failed to prove that he was the junior most at the time of his termination of his service. As such the workman has no case at all. His termination of service/retranchment cannot be assailed under Section 25-G read with Rule 77 nor he is entitled to the benefits provided for by Section 25-H read with Rule 78.

35. Let us first examine the relevant provisions of law and then the Rulings relied upon by Shri Sekhari, authorised representative for the workman.

36. Section 25-G reads as under :

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenchment and he belongs to a particular category of workman in that establishment, in the absence of any agreement between the employer and the workman in this behalf,

the employer shall ordinarily retrench the workman who was the last person to be employee in that category, unless for reasons to be recorded by the employer retrenches any other workman".

The section thus lays down that in the matter of retrenchment from a particular category of workman, the Principle of LAST COME FIRST GO shall be observed by the employer irrespective of the length of service of a workman and where the employer decides to act otherwise he must record his reasons for deviating from the said principle. Further this principle will not apply where there is an agreement between the employer and the employee to the contrary.

37. Rule 77 of the I. D. (Central) Rules, 1957 reads as under :

The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

This rule casts a legal obligation on the employer to prepare a list of seniority depending on the length of service of all the workmen of the category from which retrenchment is contemplated by him and cause a copy of it to be pasted on a notice board in a conspicuous place in his industrial premises at least 7 days before the actual date of retrenchment. The word 'Workman' in this Rule has not been used in the ordinary sense. It is qualified by length of service as will be evident from rule 76, the relevant portion of which reads as under :

If an employer desires to retrench any workman employed in his industrial establishment who has been in continuous service for not less than one year under him (hereinafter referred to as 'workman' in this rule and in Rules 77 and 78), he shall give notice of such retrenchment in the following manner".

It therefore, means that the seniority list required to be prepared by the employer is only with regard to such workmen as have not put in less than one year continuous service within the meaning of Section 25-B of the Act. He is under no legal obligation to prepare such a list in respect of workmen who have put in less than one year of continuous service. The need for such a list arises because of the provisions of Section 25-H and Rule 78 to which I shall be presently referring :

Section 25-H reads as under :

"Where any workmen are retrenched, and the employer proposes to taken into his employ any person, he shall, in such manner as may be prescribed, give an opportunity (to the retrenched workmen who are citizen of India to offer themselves for re-employment, and such retrenched workmen) who offer themselves for re-employment shall have preference over other persons."

This section thus casts a legal obligation on the employer to give the retrenched workmen an opportunity to offer themselves for re-employment, when in the category of workmen from which they had been retrenched, vacancies occur subsequently. A bare reading of this section in isolation will show that benefit of this section is not dependent on length of service, that is to say, it is available even to a workman who at the time of his retrenchment had rendered even less than one year continuous service. But it is not so as will be evident from Rule 78 which reads as under :

"At least 10 days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation to those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter ;

Provided that where the number of such vacancies is less than the number of retrenched workmen it shall be sufficient if intimation is given by the employer individually to the senior most retrenched workmen in the list referred to in Rule 77 the number of such senior most workmen being double the number of such vacancies ;

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen :

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion ;

(2) Immediately after complying with the provisions of sub-rule (1) the employer shall also inform the trade unions connected with the industrial establishment of the number of vacancies to be filled and the names of the retrenched workmen to whom, intimation has been sent under that sub-rule ;

Provided that the provisions of this sub-rule need not be complied by the employer in any case where intimation is sent to everyone of the workmen mentioned to the list prepared under rule 77.

So in view of Rule 76 to which reference has been made earlier, retrenched workmen eligible to be considered for re-employment will be those who at the time of their retrenchment had put in not less than one year of service continuously, meaning thereby that the benefit of the provisions of Section 25-H will be available to those workmen in respect of whom under Rule 77 the employer had prepared the seniority list depending on their length of service, and not to those whose names do not find place in the said list. Such an opportunity of re-employment will not be available to those workmen who at the time of their retrenchment had less than one year continuous service to their credit.

38. The position which, therefore, clearly emerges out and about which there cannot be two views is that the benefit of re-employment as provided in Section 25-H is available only to such of the retrenched workmen as had rendered one year of continuous service within the meaning of section 25 B or more. However, with regard to the application of the principle of LAST COME FIRST GO possibly two inferences can be drawn. The first is that this principle/rule will apply to any workman irrespective of length of service and the second is that it will apply only to those workmen who have completed one year of continuous service or more before their retrenchment. Before I decide which of the two views is more sound, I would like to refer to section 25-I and then to the Rulings of which references have been given above.

36. Section 25-I reads as under :

"The provisions of this chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law (including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 ;

(1) Provided that where under the provisions of any other Act or Rules orders or notifications issued thereunder or under standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to more favourable benefits in respect of that matter, notwithstanding that he receive benefits in respect of other matters under this Act.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to effect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate

to lay off and retrenchment shall be determined in accordance with the provisions of this Chapter.

According to this Section, therefore, chapter V.A in which Section 25-G and 25-H find place has an overriding effect over every thing inconsistent contained in any other law including Standing Orders made under Industrial Employment (Standing Orders) Act, 1946. However, when a workman is entitled to more favourable benefits on any matter under any other Act, Rules, Award Contract of Service etc., he shall continue to receive such more favourable benefits in respect of that matter in addition to benefits to which he is entitled under the I. D. Act on any other matter. I have to refer to Section 25-J in order to see whether or not the workmen employed in the banking industry enjoys more benefit in the matter of retrenchment under the Banking Awards and various Bipartite Settlement. Reference in this regard may be had to para 14.10 of Desai Award. The Tribunal on the point of Retrenchment observed that Section 25-G and Rule 77 are considered as sufficient and that there was no necessity for giving any direction in this regard. That is to say, even the Desai Tribunal adopted in toto the provisions as given in section 25-G and Rule 77 in the matter of retrenchment.

37. The 1st Ruling (1960) II LLJ 64 (SC), refers to the case of 128 workmen. They were discharged on 15-5-51, on the ground that they had become surplus. I may state here that Secs. 25G & 25H were inserted in the I.D. Act, by section 3 of Act No. 43 of 1953. Thus it is a case when Sec. 25G & 25H had not found place in the Statute. The principle of LAST COME FIRST GO was reiterated by their Lordships. It appears that 5 workmen to whom relief was granted were those who had also been retrenched in 1948 and subsequently under the directions of the conciliation officer were taken into service. It was thus also a case where the workmen had put in more than one year of continuous service.

38. The 2nd Ruling (1967) II LLJ 23(SC), wherein at page 30 it was observed that incidently it may also be pointed out that the retrenchment of Sushil does not seem to be otherwise justified as principle of LAST COME FIRST GO was not observed in as much as another employee by the name of Joy Kishen had been retained in service was given in a case where the retrenchment of the workman was held illegal on account of non compliance of section 25F, meaning thereby that in this case also the workmen had completed one year of continuous service within the meaning of section 25B of the Act.

39. The Third Ruling 1984 Lab. IC 445 (Bom.) refers to the case of 13 compositors whose services were terminated on May 3, 1977 by the Management of M/s. Navbharat Hindi Daily and who had put in more than one year of continuous service. It was found that the management have substantially complied with the condition precedent to retrenchment as provided in section 25F. It was also observed that section 25F and 25G are independent of each other and either has to be complied with at the time of effecting retrenchment.

40. The fourth ruling 1984 Lab IC 645 (Patna), is with regard to certain casual workers employed in North Eastern Railway whose services had been dispensed with from the after noon of 15-5-80. The case taken up by the workmen was that they had served the railway for more than 120 days and had thereby acquired temporary status entitling them to the benefits of Chapter XXIII of the Railway Establishment Manual and Rule 149 of the Railway Establishment Code. It was held that the requirement as provided in rule 77 is mandatory and its violation renders an order of termination illegal. Thus it was a case where the provisions of rule 77 were made applicable to workmen who were entitled to more favourable benefits under proviso to 25(J), because of their service conditions as provided in the Railway Establishment Manual and Rule of the Railway Establishment Code.

41. The Fifth Ruling in 1981 Lab. IC 1633 (Delhi). From it, it appears that workmen had come to be employed in 1971, 1972 and 1973 and had continuously worked as substitutes for many years before termination of their services without assigning reasons for their retrenchment and without

payment of retrenchment compensation. It was found that the provisions of Sec. 25G had been violated. Thus this case too is in respect of workmen who had put in more than one year of continuous service.

42. The Sixth Ruling 1981 Lab. IC 217 (Kerala), was also given in the case of Government Railway. It was a case of casual labourers with temporary status. So as said in the earlier case on account of more favourable terms of service they were given benefit of section 25G in view of provisions of section 25 (J).

43. In the Seventh ruling (1964) I LLJ 33 (SC), it was held that section 25F prescribes the condition precedent for retrenchment, section 25G prescribes the procedure for retrenchment and section 25H recognises the right of retrenchment workmen for re-employment. From page 335, it appears that it was also a case with regard to workmen who had been in the continuous employment for more than one year. This inference I draw from the following lines appearing at page 335 :

They were also informed that retrenchment compensation under section 25F of the Act as well prorata dues on account of leave wages earned on 31st August, 1959 would be paid to them and their claims for provident fund dues would likewise be settled. The information was given by the Manager of the Vendor Company through a notice that their services would stand terminated w.e.f. 1st October, 1959.

44. The Eighth ruling 1981 Lab. IC 1196 (Alld), is with regard to seniority list to be maintained under Rule 77 of the I.D. Central Rules. It was held that Rule 77 does not contemplate different seniority list of casual labourers under one employer on the basis of posting. It was also a case where casual labour had acquired a status of temporary servants.

45. The Ninth ruling 1978 Lab. IC 523 (Alld), was given in a case where the services of 4 chowkidars posted in the Sutherland House, Civil Lines, Kannur, where the head office of the Champaran Sugar Mills and Kannur Sugar Mills Limited units of British India Corporation were located, were terminated by means of a notice w.e.f. 17-2-70 on the ground that British India Corporation had decided to sell Sutherland House Building. It was admitted by the employer that due to certain unavoidable circumstances, Sutherland House could not be sold. Their contention was that the services of respondent workmen were retrenched bona fide as no longer required on account of their policy decision, to reorganise the business. It was found that after their termination new hands were recruited to do the work of chowkidars at Sutherland House. On these facts it was held that the retrenchment could not be held as bona fide one. It could not be used as a camouflage to dispense with the services of the workmen who might otherwise be entitled to continue in service. If the employer required fresh hands for carrying on the work of chowkidars they should have offered employment to the retrenched workmen as contemplated by section 6Q of the U.P. Industrial Disputes Act, which is mandatory.

46. It may be stated here that section 6Q of the said Act is equivalent to section 25H of the Industrial Disputes Act, 1947. In this case the dates of their initial appointment are not given.

47. In the Tenth ruling 1983 Lab. IC 135 (Kerala), it was held that the provisions of section 25F, G & H of the Act, have an overriding effect on anything inconsistent contained in any other law which must necessarily include service rules. It was a case of 3 casual mazdoors of the P & T Department who had worked for 304, 302 and 299 days upto the end of October 1979.

48. In the Eleventh ruling 1970 I LLJ 394 (Alld), it was held that when there is a conflict between contract of service and standing orders, standing orders would prevail. It was a case of a workman who was appointed in July 1956 and whose services were terminated on 7-9-57.

49. The 12th Ruling 1967 II, LLI 222 (Punjab), was given in a case where an employee by name of Shri K. C. Sud who was appointed as a Salesman in 1955 was retrenched w.e.f. 28-1-58. Vacancies of Salesman subsequent to his retrenchment occurred in September 1961, 25-5-62 and again in 1962 and on 1-1-64 Shri Sud was informed by the company for the first time about the vacancy by its letter dt. 25-6-64. It was held that Sec. 25H & Rule 78 are mandatory. It is incumbent and obligatory on the management to re-employ the retrenched employee when opportunity arises or atleast send him intimation about it. The basis of Section 25H is that employee can be retrenched when there is no work but when there is work again they are to be re-employed. Thus it was also a case where the workman had rendered more than one year of continuous service.

50. The 13th ruling 1987 SCC(Lab)75, is on Section 6P & 6N of U.P. Industrial Disputes Act. It was held that two sections are independent of each other. These are parallel to section 25F and 25G. Facts of the case are not found given. It is simply on the law point.

51. The ruling 1961 II LLI (SC) 110, is also a ruling prior to the insertion of Section 25G & 25H. In this case it was argued on behalf of the management that section 25H was not on the statute when the services of the workmen were terminated. It was observed by their Lordships that even before section 25H was added to the I.D. Act, industrial adjudication generally recognised the principle that if an employer retrenched the services of an employee on the ground that employee in question had become surplus it was necessary that when the employer had occasion to employ another hand the retrenched workman should be given an opportunity to join the service. It was a case where one Shri Guha who was appointed as Storekeeper in a Boot Factory was retrenched on May 1st, 1961, as a measure of economy on amalgamation of Boot Factory Stores and General Stores. During the pendency of proceedings the company employed 3 clerks one on 16-8-51, second in July 1952 and the third on 10-1-53. It was in these circumstances that the above observation was made by the Hon'ble S.C. The Hon'ble S.C. upheld the order of Hon'ble High Court to re-employ Sh. Guha from the date on which the award would become enforceable and to pay him the highest consolidated pay which was then being paid to the 3 clerks subsequently employed. Since the law has been codified, the ruling has to be read in the light of the provisions of section 25H read with rule 78 I. D. Central Rules.

52. The fifteenth ruling (1968) I LLI 794, Mysore, is with regard to a workman who was recruited as a Gangman in 1946, appointed as head coolie on 30-9-60, and whose services thereafter, were terminated w.e.f. 1-5-64. It was found by the Hon'ble High Court that services of the workman who had put in 24 years of service were arbitrarily terminated while respondents nos. 14 to 17, who were junior to him were retained. Thus it was also a case where the workman had put in for over one year of continuous service.

53. The sixteenth ruling 1984 Lab IC 1974 (Raj), is a full Bench Ruling. My attention was invited by Shri Sekhari to para 174 and 175 wherein it was held that even temporary employees who fulfill the requirement of Chapter V-A would be entitled to challenge their termination in case of contravention of section 25F and 25G or both from this ruling I would like to refer to para 180 which go to support latter view referred to by me above before taking up the rulings relied upon by Mr. Sekhari. It is as follows :

In respect of all the petitioners, since they have completed and have been in continuous service for more than one year as prescribed under section 25F of the I.D. Act, and no list of seniority as contemplated by Rule 77 of the Industrial Disputes (Central) Rules 1957, was prepared nor a copy of it was pasted on the notice board in a conspicuous place in the premises of an industrial establishment atleast before 7 days from the actual date of retrenchment and would therefore, the provisions of section 25G of Chapter V-A of the I.D. Act, 1947, has been contravened and on that ground also the termination of the petitioners....are liable to be quashed.

Thus it becomes clear that Sec. 25G, 25G and Rule 77 apply to the case of a workman who had been in continuous service for not less than one year.

54. The Seventeenth ruling Lab IC 1886 468 (Raj) was given in a case where the petitioner had been initially appointed as an Accountant vide order dt. 31-7-73, and his services were terminated w.e.f. 25-5-82, while he was working as Assistant Manager (Accounts). It was found that his services had been terminated because of his conduct on a condolence meeting held on 15-5-82, without affording him an opportunity to explain his conduct. It was further found that one person by name of Sh. Sharma, who was junior to him was allowed to continue. It was therefore, held that termination of his services had been arbitrarily and illegal in violation of the provisions of Articles 14 & 16 of the Constitution. Here again the facts of the case were that before the termination of his service the workmen had put in several years of service.

55. The 18th Ruling, 1986 Lab IC 1086 (SC) refers to persons who were appointed on ad hoc basis as surveyors on various dates between December 1976 and November 1977. Punjab Govt., issued a circular for regularising the services of adhoc employees who had completed the minimum period of one year service by September, 1980. The services of the petitioners were terminated w.e.f. 31-1-81, by the Chief Conservators of Soils Punjab by a simplicitor order. It was found that their services were terminated on the ground that the post on which they were working were no longer required. It was found that the management had regularised the services of adhoc employees who had been recruited later on the said post of surveyors to the prejudice to the rights of the petitioners. It was held that the Management violated the provisions enshrined in Articles 14 & 16 of the Constitution. The order of their termination was, therefore, held illegal.

56. The nineteenth ruling 1987 Lab IC 778 (Alld), was also given in a case where Article 14 & 16 of the Constitution have been violated. It was a case, where the petitioner had been working in continuous service for more than one year.

57. The twentieth ruling 1987 Lab IC 1286 (Alld), is on various sections including section 25H I. D. Act. It was a case where the workmen tendered their resignations when they were informed by the management of their decision to close the unit of their factory which was restarted after about a year. It was held to be a case of retrenchment and the workmen were held entitled to re-employment on restart of the factory on priority basis in accordance with the provisions of section 6Q of U.P. Industrial Disputes Act. It is not stated as to when they were recruited initially.

58. Thus all the rulings in which the period of service could be worked out were given in cases in which workmen had put in more than one year of continuous service.

59. Now let us examine the question from the point of view of the Scheme of Chapter V-A. It consists of Section 25A to 25F, 25FF, 25FFF and sections 25G to 25J. Material sections are Sec. 25C, 25F, 25FF, 25FFF, 25G and 25H. Sec. 25C refers to the right of workmen to lay off compensation, Sec. 25F refers to the right of workman to retrenchment compensation, Sec. 25FF refers to the right of workmen to compensation case of transfer of industry, undertaking, Sec. 25FFF refers to the right of workmen to compensation in case of closing down of an undertaking and section 25H refers to the right of a retrenched workman to re-employment. A bare reading of these sections (Section 25H to be read with rule 78) will show that these rights are available to only those workmen who had rendered not less than one year continuous service. Then how there could be an exception in the case of Section 25G. If a workman can assail his retrenchment for non compliance of section 25F, he can also assail his retrenchment on an additional ground for violation of section 25G.

60. The intention of the legislature seems to be to give the benefits under the Chapter only to workmen with one year continuous service or more. Had the intention been otherwise, Rule 77 would not have provided that the seniority list would be prepared by the employer only in respect

of workmen with one year continuous service or more. In case, the intention would have been otherwise, the rules would have been so framed as to include in the seniority list, the names of all the workmen irrespective of the length of service and in that event in the said list even the names of workman engaged that very day either in the forenoon would have also found place. The term 'workman' or 'workmen', has not been used in the above mentioned sections in a restricted sense. That is to say that it is not stated that it only refers to permanent workman or temporary workman or casual labour. It covers all three kinds of workmen. So in such an event even a casual labour with a service period of one day could avail his termination on the ground that those engaged in the afternoon on the date on which he was engaged had been retained in service. This is unimaginable. The idea of the Legislature behind extending the various benefits under this Chapter seems to be that these benefits should be extended to such workmen as have come to stay in the industrial establishment and have become part and parcel of it. In their wisdom the Legislature gave these benefits to workmen with one year continuous service as defined in Section 25B or more.

61. Hence, the latter inference that section 25G read with rule 77 is applicable to those workmen who have put in not less than one year of continuous service appears to be more sound and just.

62. Shri V. K. Sekhari, has also referred to some of the Awards given by my learned predecessor Sh. R. B. Srivastava, wherein he had applied Sections 25G & H and Rules 77 & 78 in cases where the workmen had worked much less than 240 days during the period of 12 calendar months preceding the date of their retrenchment. With all respect, I do not agree with his views.

63. Held that the workmen was not the junior most at the time of termination of his services and even assuming that juniors to him were retained, his case is not covered by the provisions of Section 25G read with Rule 77 as well as by the provisions of section 25H read with Rule 78. The point is decided accordingly.

64. Hence, in view of the above discussions on points of facts and law, I find no force in the various submissions made by Shri V. N. Sekhari, authorised representative for the workman. The action of the management in terminating the services of the workman and not considering him for further employment while engaging fresh hands is justified.

65. Accordingly, the workman is held entitled to no relief.

66. Reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-12012/218/85-D.II(A)]
N. K. VERMA, Desk Officer

नई दिल्ली, 28 दिसम्बर, 1988

का. भा. 232.—खान अधिनियम, 1952 (1952 का 35) की धारा 5 की उपधारा (i) के अधीन प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उप निदेशक, खान सुरक्षा (खान), सर्वश्री कुलवीर कुमार शर्मा, उत्पल साहू, पी. सी. राजाक, बी. पी. सिंह, तथा ए. के. खेराडा को प्रगले प्रादेश तक मुख्य खान निरीक्षक के अधीनस्थ खान निरीक्षक नियुक्त करती है।

[फा. सं.-ए-12025/1/87-खान-I]
आर. टी. पांडेय, उप सचिव

New Delhi, the 28th December, 1988

S.O. 232.—In exercise of the powers conferred under sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952) the Central Government hereby appoints S/Shri Kuldip Kumar Sharma, Utpal Saha, P. C. Rajak, B. P. Singh and N. K. Kherada, Deputy Directors of Mines Safety (Mining) as Inspectors of Mines, subordinate to the Chief Inspector of Mines, until further orders.

[File No. A-12025/1/87-M.I]
R. T. PANDEY, Dy. Secy.

नई दिल्ली, 5 जनवरी, 1989

का. भा. 253.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम प्रवर्तन से मैसर्स इंडियन प्रायल बर्लिंग लि., पी. 68, पहाड़पुर कलकत्ता और इंडियन प्रायल बर्लिंग लि., पिरपाड़ा, मुम्बई-74 में नियुक्त नियमित कर्मचारियों को 1-10-1987 से 30-9-1991 तक जिसमें यह दिनांक भी सम्मिलित है की और अवधि के लिए छूट प्रदान करती है।

2. पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात्:—

(1) पूर्वोक्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर्ड कारखाना, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदामिधान दिखाए जायेंगे;

(2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रयोजनार्थ प्राप्त करते रहेंगे, जिनको पाने के लिए वे इस अधिनियम द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व सन्दर्भ अधिनियमों के आधार पर हकदार हो जाते;

(3) छूट प्राप्त अवधि के लिए यदि कोई अधिदाय पहले ही किए जा चुके हों तो वे वापस नहीं किए जायेंगे;

(4) उक्त कारखाने का नियोजक, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे हमें इसके पश्चात् "उक्त अवधि" कहा गया है), ऐसी विवरणियाँ ऐसे प्राह्व में और ऐसी विनिष्टियाँ सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देती थी;

(5) निगम द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निगम का इस निर्धारित प्राधिकृत कोई अन्य पदधारी:—

(i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरणी की विनिष्टियों को सत्यापित करने के प्रयोजनार्थ

(ii) यह अभिलिखित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा प्रयोजित रजिस्टर्ड और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिलिखित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके प्रतिफल स्वरूप इस अधिनियम के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(4) यह अभिलिखित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबन्ध प्रवृत्त थे, ऐसे किन्हीं उपबन्धों का अनुपालन किया गया था या नहीं; निम्नलिखित कार्य करने के लिए सशक्त होगा:—

(क) प्रधान या अभ्यवहित नियोजक से अपेक्षा करने कि वह उसे ऐसी जानकारी दे जिसे उपर्युक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है;

(ख) ऐसे प्रधान व अभ्यवहित नियोजक के अधिनियम की नीति का कारखाने स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियाँ और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे, या जहाँ ऐसी जानकारी है, जिसे वे आवश्यक समझते हैं, या

(ग) प्रधान या अध्यक्षित नियोजक की, उसके अधिकारी या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना ; या

(घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी राजस्टर, लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उससे उद्धरण लेना ।

[संख्या एस-38014/47/88-एसएस-1]

(स्पष्टीकरण ज्ञापन)

इस मामले में छूट का भूतलक्षा प्रभाव बना आवश्यक हो गया है क्योंकि छूट के आवेदन पर कार्रवाई करने में समय लगा किन्तु यह प्रमाणित किया जाता है कि छूट का भूतलक्षा प्रभाव बन स किता भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ा ।

New Delhi, the 5th January, 1989

S.O. 233.—In exercise of the power conferred by section 44 read with section 51A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of the Indian Oil Blending Limited, F-08 Panipat, Calcutta and the Indian Oil Blending Limited, F-08 Panipat, Bombay-4 from the operation of the said Act for a period with effect from 1st October, 1987 upto and inclusive of the 30th September, 1991.

The above exemption is subject to the following conditions, namely:—

(1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they would have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid shall not be returned;

(4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any inspection appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official or the Corporation authorised in this behalf shall, for the purpose of—

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory be empowered to:—

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or

(b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or

(b) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

[File No. S-38014/47/88-SS. I]

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as the processing of application for exemption took time. However, it is certified that the grant of exemption with retrospective effect will not effect the interest of anybody adversely.

का. प्रा. 234:—गुजरात राज्य सरकार ने कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खंड (घ) के अनुसरण में श्री एम. पी. पारेख के स्थान पर श्री के. राममूर्ति, अपर मुख्य सचिव, गुजरात सरकार को कर्मचारी राज्य बीमा निगम में उस राज्य का प्रतिनिधित्व करने के लिए नामनिर्दिष्ट किया है ;

अतः अब केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसरण में, भारत सरकार के अम मंत्रालय की अधिसूचना संख्या का. प्रा. 545(अ), दिनांक 25 जुलाई, 1985 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में, “(राज्य सरकार द्वारा धारा 4 के खंड (ब) के अधीन नामनिर्दिष्ट)” शेषक के नोबे मद् II के सामने की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:—

श्री के. राममूर्ति,
अपर मुख्य सचिव
स्वास्थ्य कल्याण विभाग
गान्धीनगर, गुजरात

[सं. यू-16012/21/88-एस. एस-1]

S.O. 234.—Whereas the State Government of Gujarat has, in pursuance of clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri K. Rammoorthy, Addl. Chief Secretary, Government of Gujarat to represent that State on the Employees' State Insurance Corporation, in place of Shri M. P. Parekh.

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. No. 545(E), dated the 25th July, 1985, namely:—

In the said notification, under the heading “(Nominated by the State Government under clause (d) of section 41”, for the entry against Serial Number 11 the following entry shall be substituted, namely:—

Shri K. Rammoorthy,
Addl. Chief Secretary,
Health & Family Welfare Deptt.,
Gandhi Nagar, Gujarat.

[No. U-16012/21/88-SS.I]

गई दिल्ली, 6 जनवरी, 1989

का. आ. 235:—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91A के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम प्रवर्तन में सेससे भावनी उद्योग निमित्ते गुरुग्रांव हरियाणा में निम्नलिखित कर्मचारियों को 1-8-1987 से 30-9-1991 तक जिसमें यह दिनांक भी सम्मिलित है की ओर अवधि के लिए छूट प्रदान करती है।

2. पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात्—

(1) पूर्वोक्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदाभिधान लिखा जाएगा;

(2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रमुखियाएं प्राप्त करने रहेंगे, जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व सम्मत अधिसूचना के आधार पर हकदार हो जाते;

(3) छूट प्राप्त अवधि के लिए यदि कोई अधिदाय पहले हो किए जा चुके हों तो वे वापस नहो किए जाएंगे;

(4) उक्त कारखाने का नियोजक, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे इसमें इसके पश्चात "उक्त अवधि" कहा गया है), ऐसी विवरणियां ऐसे प्राप्ति में और ऐसी विनिर्दिष्टों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देती थी;

(5) निम्न द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निम्न का हत निमित्त अधिकृत कोई अन्य पदधारी :—

- (i) धारा 44 की उपधारा (1) के अधीन उक्त अवधि की बाबत की गई किसी विवरणी की विनिर्दिष्टों को सत्यापित करने के प्रयोजनार्थ
- (ii) यह अधिनियमित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अधिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अधिनियमित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन पायदों को, जिसके प्रतिकूल स्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
- (iv) यह अधिनियमित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाना के संबंध में अधिनियम के उपबन्ध प्रवृत्त थे, ऐसे किसी उपबन्धों का अनुपालन किया गया था या नहीं;

निम्नलिखित कार्य करने के लिए सशक्त होगा :—

- (क) प्रधान या अध्यक्षित नियोजक से अपेक्षा करने कि वह उसे ऐसी जानकारी दे जिसे उक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है;
- (ख) ऐसे प्रधान या अध्यक्षित नियोजक के अधिनोर्गामीन किसी कारखाने स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि यह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे, या उन्हें ऐसी जानकारी दे, जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या अध्यक्षित नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की

जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

- (घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उससे उद्धरण लेना।

[संख्या एम - 38014/43/88 - एम. एस-1]

(स्पष्टीकरण भाग)

इस मामले में छूट की भूतलक्षी प्रभाव देना आवश्यक हो गया है क्योंकि छूट के आवेदन पर कार्यवाही करने में समय लगा किन्तु यह प्रमाणित किया जाता है कि छूट की भूतलक्षी प्रभाव देने से किसी भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

New Delhi, the 6th January, 1989

S.O. 235.—In exercise of the power conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of M/s. Maruti Udyog Limited, Gurgaon, Haryana from the operation of the said Act for a period with effect from 1st August, 1987 upto and inclusive of the 30th September, 1991.

The above exemption is subject to the following conditions, namely :—

(1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refunded;

(4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purpose of—

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory be empowered to :—

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or

(b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any

person found incharge thereof to produce to such inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from, any register account book or other document maintained in such factory, establishment, office or other premises.

[File No. S-38014/43/88-SS.I]

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as the processing of application for exemption took time. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

नई दिल्ली, 9 जनवरी, 1989

का.भा. 233.—केंद्रीय सरकार ने कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खण्ड (ब) के अनुसरण में स्वर्णिम श्री बाबू भार्दी राठी के स्थान पर श्री पी. बी. दुग्गल, अध्यक्ष, फेडरेशन आफ एसोसिएशन आफ स्माल इंडस्ट्रीज आफ इंडिया को कर्मचारी राज्य बीमा निगम के प्रतिनिधि के रूप में नामनिर्दिष्ट किया है।

अतः अब केंद्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसरण में, भारत सरकार के अम मन्त्रालय की अधिसूचना संख्या का. भा. 545 (घ) दिनांक 25 जुलाई, 1985 में निम्नलिखित संशोधन करती है, अर्थात्—

उक्त अधिसूचना में, “(केंद्रीय सरकार द्वारा धारा 4 के खण्ड (ब) के अधीन नामनिर्दिष्ट)” शीर्षक के ताली मद् 31 के सामने को प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जायेगी, अर्थात्—

“श्री पी. बी. दुग्गल,

अध्यक्ष

फेडरेशन आफ एसोसिएशन आफ स्माल इंडस्ट्रीज आफ इंडिया

23-B/2, गुरु गोबिंद सिंह मार्ग,

नई दिल्ली-110005

[संख्या यू. 16012/17/88/एस एस]

New Delhi, the 9th January, 1989

S.O. 236.—Whereas the Central Government has, in pursuance of clause (f) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri P. B. Duggal, President, Federation of Association of Small Industries of India, as member of the Employees' State Insurance Corporation, in place of late Shri Babubhai Rath; and

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. No. 545(E), dated the 25th July, 1985, namely :—

In the said notification under the heading “[Nominated by the Central Government under clause (f) of section 4]”, for the entry against Serial number 31 the following entry shall be substituted, namely :—

Shri P. B. Duggal,
President,
Federation of Associations of Small
Industries of India,
23-B/2, Guru Gobind Singh Marg,
New Delhi-5.

[No. U-16012/17/88-SS.I]

नई दिल्ली, तारीख 11 जनवरी, 1989

का. भा. 237.—कर्मचारी अधिनियम विधि एवं प्रकरणों उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 6(ग) की उप-धारा (4) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्राध्यक्ष सरकार एतद्वारा भारत सरकार, अम मन्त्रालय के सा. भा. 875 (ई) दिनांक 1 अक्टूबर, 1987 अधिसूचना जो दिनांक 1 अक्टूबर, 87 के प्रसाराण राजपत्र भाग-II खंड 3(vi) में प्रकाशित हुई थी, में निम्नलिखित परिवर्धन करते हैं अर्थात्—

अधिसूचना के पैराग्राफ के अन्त में निम्नलिखित जोड़ा जाएगा, अर्थात् इस पैराग्राफ के अन्तर्गत नियोजता द्वारा देय प्रशासनिक प्रभार की न्यूनतम राशि प्रतिमाह 32/— रुपये होगी।

[अंश 11011/3/83पं. एक. II एत एस-II]

New Delhi, the 11th January, 1989

S.O. 237.—In exercise of the powers conferred by clause (a) of sub-section (4) of section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Labour No. S.O. 875(E), dated the 1st October, 1987, published in the Gazette of India, Extraordinary, Part-II, Section 3(ii), dated the 1st October, 1987, namely :—

In the said notification, in paragraph 1, the following shall be added at the end, namely :—

“The amount of administrative charges payable by the employers under this paragraph shall be subject to minimum of Rs. 2 per month.”

[No. R-11011/3/83-PF.II(SS. II)]

का.भा. 228.—केंद्रीय सरकार, कर्मचारी अधिनियम विधि और प्रकरणों उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 17 की उपधारा (3क) के खंड (क) के अनुसरण में और भारत सरकार के अम मन्त्रालय की अधिसूचना संख्या का. भा. 2625 तारीख 22 अगस्त, 1978 को ऐसी बातों के सिवाए अधिकांश करते हुए, जो ऐसे अधिकांश के पूर्व की गई हैं या किए जाने से लोप की गई हैं, यह निदेश देती है कि उक्त अधिनियम, की धारा 17 की उपधारा (2क) या उपधारा (2ख) के अधीन छूट प्राप्त किसी स्थापना किसी व्यक्ति या वर्ग के व्यक्तियों के सम्बन्ध में नियोजक बीमा निधि को, कुल मूल वेतन सहगर्ह भत्ता (जिसके अन्तर्गत किसी खाद्य रियायत का नकर मूल्य भी है) और स्थापना कर्मचारियों को तत्समय संदेय प्रतिधारण भत्ता यदि कोई हो, या जो यथास्थिति किसी व्यक्ति या वर्ग के व्यक्तियों द्वारा प्राप्त हो, जिसकी बाबत प्रत्येक मास के अंत के 15 दिन के भीतर अधिराय संदेय होते किन्तु जो इस छूट के कारण संदेय नहीं है, के लिए शून्य किन्तु शून्य शून्य पांच प्रतिशत (0.005 प्रतिशत) की दर से निराक्षण प्रभारों का संदाय करेंगे। इस पैरा के अधीन संदेय निरीक्षण प्रभारों की रकम न्यूनतम 1 रुपये प्रतिमास के अधीन होगी।

2. यह अधिसूचना 1 जनवरी, 1989 से प्रवृत्त होगी।

[अं. अंश 11011/3/83--पी.एफ. 2 (एसएस 2)]

S.O. 238.—In pursuance of clause (a) of sub-section (3A) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India, in the Ministry of Labour, S.O. No. 2625, dated the 22nd August, 1978, except as respect things done or omitted to be done before such supersession the Central Government hereby directs that the employers in relation to an establishment or any person or class of persons exempted under sub-section (2A) or sub-section (2B) of section 17 of the said Act, shall pay to the Insurance Fund, inspection charges at the rate of zero point zero zero five per cent (0.005%) of the aggregate of the basic wages, dearness allowance (including

the cash value of any food concessions) and retaining allowances, if any, for the time being payable to the employees of the establishment or receivable by the person or class of persons as the case may be, in respect of which contributions would have been payable but for such exemption, within 15 days of the close of every month. The amount of inspection charges payable under this paragraph shall be subject to minimum of Re. 1 per month.

2. This notification shall come into force with effect from 1st January, 1989.

[No. R-11011/3/83-PF.II (SS. II)]

का. घा. 239.—केन्द्रीय सरकार से कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खंड (घ) के अनुसूचन में कुमारी इ. डी. सूजा के स्थान पर श्री एस. वी. गोले, महा सचिव, भारतीय राष्ट्रीय नगर स्थानीय निकाय कामगार संस्था को कर्मचारी राज्य बीमा निगम के प्रतिनिधि के रूप में नामनिर्दिष्ट किया है।

अतः अब, केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसूचन में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. घा. 545 (अ) दिनांक, 25 जुलाई, 1985 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में, केन्द्रीय “(सरकार द्वारा धारा 4 के खंड (घ) के अधीन नामनिर्दिष्ट)” शीर्षक नीचे मद् 35 के सामने की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात् श्री एस. वी. गोले,

महासचिव, भारतीय राष्ट्रीय नगर स्थानीय निकाय कामगार संस्था
कामगार कार्यालय, टोपीवाला लेन, बम्बई-400007

[संख्या यू-16012/20/88-एसएम-1]

S.O. 239.—Whereas the Central Government has, in pursuance of clause (g) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri S. V. Gole, General Secretary, Indian National Municipal and Local Bodies Workers Federation, Bombay as member of the Employees' State Insurance Corporation, in place of Miss E. D. Souza;

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. No. 545(E), dated the 25th July, 1985, namely:—

In the said notification, under the heading “[Nominated by the Central Government under clause (g) of section 4]”, for the entry against Serial Number 35, the following entry shall be substituted, namely:—

Shri S. V. Gole,
General Secretary,
Indian National Municipal and Local Bodies,
Workers Federation,
Kamgar Karyalaya,
Topiwala Lane,
Bombay-400007.

[No. U-16012/20/88-SS.II]

नई दिल्ली 12, जनवरी, 1989

का. घा. 240.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91 क के माध्यम से धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम, प्रवर्तन के मैसर्स नेशनल सोल्यूट कार्पोरेशन लि., नई दिल्ली के केन्द्रीय कार्यालय और सचवाई प्रभाग में नियुक्त नियमित कर्मचारियों को 1-10-1984 से 30-9-1991 तक जिसमें यह दिनांक भी सम्मिलित है की और अवधि के लिए छुट्टी प्रदान करती है।

पूर्वोक्त छुट्टी की शर्तें निम्नलिखित हैं, अर्थात्:—

- (1) पूर्वोक्त कारखाना जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छुट्टी प्राप्त कर्मचारियों के नाम और पदाभिधान दिखाए जाएंगे;
- (2) इस छुट्टी के होते हुए भी, कर्मचारी उक्त अधिनियम के अर्धीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे, जिसको पाने के लिए वे इस अधिसूचना द्वारा दी गई छुट्टी के प्रवृत्त होने की तारीख से पूर्व संपन्न अधिदायों के आधार पर हकदार हो जाते;
- (3) छुट्टी प्राप्त अवधि के लिए यदि कोई अधिदाय पहले ही किए जा चुके हों तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने का नियोजक, उक्त अवधि की बाबत जिसके दौरान उक्त कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे इसमें इसके पश्चात् “उक्त अवधि” कहा गया है) ऐसी विवरणियां ऐसे प्राकन में और ऐसी विधि-विधियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) अधिनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देती थी;
- (5) निगम द्वारा उक्त अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदाधारी:—
 - (i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बाबत वी गई किसी विवरणी की विनिष्टियों को सत्यापित करने के प्रयोजनार्थ;
 - (ii) यह प्रतिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) अधिनियम, 1950 द्वारा तथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह प्रतिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके प्रतिकारस्वरूप इस अधिसूचना के अधीन छुट्टी दी जा रही है, मगद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह प्रतिनिश्चित करने के प्रयोजनार्थ कि उक्त अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उल्लंघन प्रसूत थे, ऐसे किसी उपबन्धों का अनुपालन किया गया था या नहीं;

निम्नलिखित कार्य करने के लिए सक्षम होगा:—

- (क) प्रधान या व्यवहृत नियोजक से अपेक्षा करने कि वह उसे ऐसे जानकारी जिसे उपरोक्त निरीक्षक या अन्य पदाधारी आवश्यक समझता है;
- (ख) ऐसे प्रधान या व्यवहृत नियोजक के अधिभोगाधीन किसी कारखाने, स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहिषा और अन्य दस्तावेज ऐसे निरीक्षक या अन्य पदाधारी के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे या उन्हें ऐसी जानकारी दे, जिसे वे आवश्यक समझते हैं;
- (ग) प्रधान या व्यवहृत नियोजक की, उसके अधिकारी या सेवक को, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय

या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने या युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

- (घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उससे उद्धरण लेना।

[संख्या एम-38014/68/88-एस.एस-1]

ए. के. भट्टारай, अवसर सचिव

स्पष्टीकरण प्राप्त

इस मामले में छूट को भूतलसी प्रभाव देना आवश्यक हो गया है क्योंकि छूट का आवेदन पत्र बेरी से प्राप्त हुआ था। किन्तु यह प्रमाणित किया जाता है कि छूट को भूतलसी प्रभाव देने से किसी भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

New Delhi, the 12th January, 1989

S.O. 240.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (3 of 1948), the Central Government hereby exempts the regular employees of The Central Stores and Supply Division, Delhi belonging to the National Seeds Corporation Limited, New Delhi, from the operation of the said Act for a period with effect from 1st October, 1984 upto and inclusive of the 30th September, 1991.

The above exemption is subject to the following conditions, namely:—

(1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refunded;

(4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Inspector appointed by the Corporation under sub-section (1) of section 43 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purpose of—

- (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) ascertaining whether the employees continue to be entitled to benefits provide by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory be empowered to:—
- (a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or
 - (b) enter any factory, establishment, office or other premises occupied by such principal or immediate

employer at any reasonable time and require any person found incharge thereof to produce to such inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or

- (d) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

[File No. S-38014/68/88-SS.I]

A. K. BHATTARAI, Under Secy.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as the application for exemption was received late. However, it is certified that the grant of exemption with retrospective effect will not affect interest of anybody adversely.

सई दिल्ली, 6 जनवरी, 1989

का.आ. 241.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिहार राज्य खनिज विकास निगम लि., के प्रबंधन के सम्यक् नियोजकों और उनके कर्मचारों के बीच, अवधि में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2 धनबाद को प्रकाशित करती है, जो नवीन सरकार को 3/1/89 को प्राप्त हुआ था।

New Delhi, the 6th January, 1989

S.O. 241.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No.2 Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bihar State Minerals Development Corporation Limited and their workmen, which was received by the Central Government on the 3-1-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Reference No. 247 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Bihar State Mineral Development Corporation Ltd. and their workmen.

APPEARANCES :

On behalf of the employers : Shri B. Joshi, Advocate.
On behalf of the workmen : The concerned workman himself.

STATE : Bihar

INDUSTRY : Mica

Dated, Dhanbad, the 27th December, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-27012/4/87-D.II(B) dated, the 25th August, 1987.

SCHEDULE

"Whether the action of the management of Bihar State Mineral Development Corporation Ltd. (E.M.M. Ltd. Unit), P.O. Kodarma, District, Hazaribagh in terminating the services of Shri Devendra Kumar Pandey, Register Keeper, w.e.f. 2-9-1985 is legal and justified? If not, to what relief is the concerned workman entitled?"

In this case only the union filed their W.S. Thereafter several adjournments were granted to the management for filing their W.S. But subsequently when the case was fixed both the parties appeared before me and filed a petition of compromise. I heard the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the petition of compromise which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer
[No. L-27012/4/87-D.II(B)]

ANNEXURE

Before,
The Presiding Officer,
Central Government Industrial Tribunal No. 2,
Dhanbad.

Reference No. 247/87

Employers in relation to the management of B.S.M.D.C Ltd. & their workman.

"Petition of compromise"

The humble petition on behalf of parties respectively sheweth.

1. That parties on the above reference have amicably settled the dispute on the following terms:—

"Terms of settlement"

(a) That the concerned workman Sri D. K. Pandey will not claim for his employment under the management as the vacancy does not exist.

(b) That he will get Rs. 2704 (Two thousand seven hundred and four only) as full and final settlement of all his claim. Amount of Rs. 330 lying dues prior to 1980 since sub-judice in case No. P(1)/80 under P.W. Act will be considered as per the decision of the Court.

2. That in view of the above settlement there remains nothing to be adjudicated.

It is humbly prayed that the Hon'ble Tribunal will be graciously pleased to accept the terms of settlement as fair and proper and be pleased to pass the award in terms of settlement

For the workman.

Hony. General Secretary,
Metaliferous Mines Workers Assn.
Kodarma (Hazaribagh).
2. Consenting workman.
Devendra Kumar Pandey
4-1-88.

For the Employers.
Bachon Singh,
Zone Manager,
B.S.M.D.C. Ltd.,
Kodarma Mica Unit
Kodarma (H. Baeh)
By
Adviser
7-12-88

का.सा. 242.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जयपुर उद्योग लिमिटेड सवाईगढ़ में माधोपुर के प्रबंधन से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, जनवरी में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली को संवत् 4-1-89 को प्राप्त हुआ था।

115 GI/89—5

S.O. 242.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jaipur Udyog Limited, Swaimadhopur and their workmen, which was received by the Central Government on 4-1-89.

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL,
NEW DELHI

I.D. No. 45/87

In the matter of dispute between:

Shri B. L. Mishra through the President,
Jaipur Udyog Karamchhari Union (CITU),
Phalodi Quarry, Sawaimadhopur (Raj.)-322026.

Versus

The General Manager,
The Jaipur Udyog Ltd., Phalodi,
Quarry, Sawaimadhopur (Raj.).

APPEARANCES:

None for the workman.
Shri M. L. Vali for the management.

AWARD

The Central Government in the Ministry of Labour vide its order No. L-29012/51/85-D.II(B) dated 27-5-87 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management in equating the grade of Shri B. L. Mishra, Compounder Incharge with the grade of other Compounders w.e.f. 1-1-1982 is justified? If not, to what grade he is entitled w.e.f. 1-1-1982?"

2. The brief case of the workman as per his statement of claim is that in terms of arbitration award dated 30-1-73 of Shri A. S. Gupta AIC(C) under section 10-A of the I.D. Act the workman was promoted to the higher grade with that of other compounders w.e.f. 25-1-71 and he was designated as Pharmacist with additional duties and responsibilities. The management while implementing the first arbitration award on Cement Industry promoted the workman from Grade IV grade V w.e.f. 1-10-78. There was a writ petition in the High Court of Rajasthan and in compliance with the High Court judgment dated 26-10-83 the designation of the workman was changed from Pharmacist to Compounder Incharge of the Dispensary vide letter dated 25-2-1984. In the meanwhile the management equated the three compounders working in the dispensary and relating in shift duties in Grade V retrospectively w.e.f. 1-1-82. It is alleged that the Management deliberately and with unfair means degraded the status and responsibilities of the workman by equating him with other compounders and violated the letter and spirit of the Arbitration award dated 30-1-73. The workman requested the Management vide application dated 20-6-84 for granting him higher grade. Thereupon the Union took up the dispute on behalf of the workman. It has been further stated that injustice has been done to the workman by not granting him grade VII of the Cement Industry which he deserves by virtue of his designation trade and responsibilities and on merit also the workman was initially appointed as Compounder on 22-7-59 being only trained and qualified compounder whereas other compounders i.e. Shri Naurang Singh, Kalimuddin and Ranbir Singh were appointed as Dispensary Boy or Dressor and later promoted as Compounder on basis of experience only. Hence it was prayed that the workman Shri B. L. Mishra may be granted grade VII w.e.f. 1-1-82.

3. The Management in its written statement controverted the claim and allegations of the Union and submitted that in compliance with the Arbitration Award of Shri A. S. Gupta, ALC dated 30-1-73 the workman Shri B. L. Mishra

was designated as Pharmacist promoted to the Higher Grade and his working hours were fixed in the general shift. Again he was redesignated as Compounder Incharge in compliance with the Order/Judgment of the Hon'ble High Court passed on 26-10-83 and, therefore, the question of upgradation did not arise in this case. Further the duties of Shri Mishra have not changed in any manner and the designation of Compounder Incharge does not make any material difference so as to grant any higher grade which is not prescribed in the Arbitration Award for Cement Industry. No designation other than Compounder and grade higher than Vth have been fixed in the Arbitration Award for Cement Industry, and consequently the question of promotion of Shri Mishra to Grade VII does not arise, as he had already been fixed in the highest grade prescribed in the Arbitration Award 1983 for Cement Industry. It was further stated that the fixation of the employees including the Compounders have been done strictly in accordance with the Award of Arbitration and also subsequently as per award 1983 on the basis of the experience, skill and suitability etc. and any further promotion of an employee is the discretion of the management and depends up on the length of service, efficiency and quality of work etc.

19th December, 1988.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

19th December, 1988.

G. S. KALRA, Presiding Officer
[No. L-29012/51/85-D.III(B)]
V. K. SHARMA, Desk Officer

नई दिल्ली, 9 जनवरी, 1989

का.मा. 243.—औद्योगिक विवाद प्रक्रियाम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ई. सी. लि. की मधेपुर कोलियरी के प्रबंधन के सम्बन्ध में निम्नलिखित औद्योगिक विवाद में और उन कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-89 को प्राप्त हुआ था।

New Delhi, the 9th January, 1989

4. It appears that the Union of the workman which has raised this dispute has lost interest in pursuing the dispute. The appearance of the Union has been quite erratic. Sporadically one Shri P. C. Pandey has been putting in appearance who absented again and again. Ever since 29-8-88 none has appeared although four adjournments were granted. Hence this reference is disposed of for non-prosecution and "No Dispute" Award is given.

S.O. 243.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Madhapur Colliery of M/s E.C. Ltd. and their workmen, which was received by the Central Government on 2-1-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 9 of 1986

Parties : Employers in relation to the management of Madhapur Colliery of M/s. E.C. Ltd.

AND

Their Workmen.

Appearances :

On behalf of Employers

None.

On behalf of Workmen

None.

State : West Bengal.

Industry : Coal.

AWARD

By Order No. L-19011(2)/85-D. IV(D) dated 17th January, 1986, the Government of India Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the management of Madhapur Colliery of M/s. E.C. Ltd., P.O. Pandaveswar, Distt. Burdwan (WB) is justified in not converting and regularising their workmen of the Laskarband Unit, as mentioned in the Annexure 'A' into time-rate with their pay protection and consequential monetary benefits. If not, to what relief the workmen concerned are entitled."

ANNEXURE—A

Conversion from Piece-rated to time-rated of 55 workers at Laskarband Unit of Madhapur Colliery with protection as stated below :

1. Sri Kishun Harijan	1980	U/G Loader to T/Helper.
2. Sri Dulal Bula		Loader to Dresser
3. Sri Madhab Bhuia		—do— to —do—
4. Sri Sastipada Bhuia		—do— to —do—
5. Sri Samir Ch Bhuia		—do— to —do—
6. Sri Tripath Pradhan	1982	—do— to T/Helper.
7. Sri Dandapani Sahu		—do— to —do—
8. Sri Brijdabana Behara		—do— to —do—
9. Sri Gobinda Nayaka		—do— to —do—
10. Sri Anandji Jadav		—do— to —do—

11. Sri Sabadeb Jadab	..	W/Loader to —do—
12. Sri Sadasbiv Prodhan	..	—do— to —do—
13. Sri Adijt Ruidas	..	—do— to —do—
14. Sri Brindra Jadav	..	—do— to —do—
15. Sri Herakak Ruidas	..	S/Trammer to C.H.P. Cleaning
16. Sri Uddaya Patra	1981	S/Trammer to P.F. Mazdoor
17. Sri Bina Das	..	—do— to C.H. Khalasi
18. Sri Sridhar Baratia	1981	—do— to Fitter Helper
19. Sri Dhuna Majhi	..	—do— to Dresser
20. Sri Bhudeb Pr. Jadab	..	—do— to H. Khalasi
21. Sri Gour Bagdi	..	—do— to Fitter Helper
22. Sri Sudamay Hazra	..	—do— to —do—
23. Sri Gopal Bagdi	..	—do— to —do—
24. Sri Tripathi Sethi	..	Loader to T/Helper
25. Sri Dasu Bhuia	..	S/Trammer to El. Helper
26. Sri Jurendra Behara	..	—do— to T/Helper
27. Sri Baldev Bhuia	..	—do— to Ele. Helper
28. Sri Sewdhari Dusadh	..	—do— to T/Helper
29. Sri Ratan Ruidas	..	—do— to G. Mazdoor
30. Sri Anil Hazra	..	—do— to Switch Operator
31. Sri Mathe Show	..	—do— to C.A.P.O.
32. Sri Rajendra Routh	..	—do— to Switch Helper
33. Sri Haradhan Bagdi	..	—do— to Switch Board Attendant
34. Sri Rabital Bagdi	..	—do— to C.H.P. Cleaning
35. Sri Murai Barada	..	—do— to G. Mazdoor
36. Sri Dima Ruidas	..	—do— to Fireman
37. Sri Akali Hazra	..	—do— to Store Mazdoor
38. Sri Fani Bagdi	1980	W/Loader to T/Khalasi
39. Sri Habul Bouri	..	—do— to —do—
40. Sri Lakhi Dom	1981	—do— to Canteen Kamin.
41. Sri Rabi Hazra	1972	—do— to Shalpicker
42. Smt. Anakkali Majhan	..	—do— to —do—
43. Sri Basudeb Hazra	..	—do— to —do—
44. Sri Baka Bagdi	..	—do— to —do—
45. Sri Mahadeb Bagdi	..	—do— to —do—
46. Sri Basu Ruidas	..	—do— to —do—
47. Sri Chabi Bagdi	..	—do— to —do—
48. Smt. Fulu Khadra	..	—do— to —do—
49. Smt. Naraynai Bouri	..	—do— to —do—
50. Sri Maharagga Baswai	..	—do— to —do—
51. Sri Hari Sawi	..	—do— to —do—
52. Sri Saday Dom	..	—do— to —do—
53. Sri Amullo Bagdi	..	—do— to —do—
54. Sri Sainath Paswan	..	—do— to —do—
55. Sri Dukhi Majhan	1983	—do— to Coal Supplier.

2. It appears from the record that both the Union and the management did not appear on 27-10-1988 in spite of service of the registered notice on them for appearing on that date. The case was however adjourned to this day (22-12-1-88). Neither party has appeared today also in spite of the service of the second registered notice on them. It appears from the record that the union by its petition filed on 2nd December, 1986 has prayed for passing the 'No Dispute Award' in the circumstances. I pass the 'No Dispute Award'.

This is my Award.

SUKUMAR CHAKRAVARTY, Presiding Officer

Dated, Calcutta.

The 22nd December, 1988.

[No. L-19011/2/85-D.IV(B)]

का.श्रा. 244.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अनुसूचना में, केन्द्रीय सरकार मैसर्स बिगरानी कोलियरीज क. लि. बेलम्पल्ली डिविजन II के प्रबंधन के सम्बन्ध में उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3.1.89 को प्राप्त हुआ था।

S.O. 244.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Company Limited, Bellampalli Division II and their workmen, which was received by the Central Government on the 3-1-89.

ANNEXURE
BEFORE THE INDUSTRIAL TRIBUNAL AT
HYDERABAD

Dated, the 21st December, 1988
Industrial Dispute No. 35 of 1985

BETWEEN

The Workmen of Singareni Collieries Company Limited,
Bellampalli, Adilabad District.

AND

The Management Singareni Collieries Company Limited,
Bellampalli, Adilabad District.

APPEARANCES :

Srifi B. Ganga Ram, Chief Vice President, Singareni Collieries Workers Union, Bellampalli—for the Workmen.

Sarvasri K. Srinivasa Murthy, H. K. Saigal and G. Sudha, Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L 21011/6/85-D.III (B) dated 21-5-1985 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the management of Singareni Collieries Company Limited, Bellampalli and their workmen to this Tribunal for adjudication :

"Whether the action of the management of Singareni Collieries Company Limited, in relation to their Bellampalli Division-II in not giving 3 increments in Category IV to Sarvasri Kumari Gangaram, Naredla Komaraiah, Allvelli Sivareddy, Dasari Agaiiah, Avula Ramesh, Maanam Lachaiiah, Nagula Posham, Bure Poshamallu, Sanga Rajam, Manda Gouraiah, Isampalli, Lingaiah, Reddimalla Pathuru, Masaparthi Rajaiih, Manga Chinnaiiah, Jangarla Sat-haih, Gujjula Ramachander, on their appointment as Trammers is justified? If not, to what relief are the workmen entitled?"

The reference has been registered as Industrial Dispute No. 35 of 1985 and notice were issued to both the parties.

2. The 16 workmen who are involved in this dispute were first appointed as Casual Workers in 1977 and they were working as Trammers in acting capacity. They were paid acting allowance of Category IV wages. They were confirmed as Coal Fillers with effect from 1-5-1979 vide letter dated 24-4-1979. They worked as Coal Filler for only four or five days and then they were working as Trammers in acting capacity continuously and they were paid wages on the basis of mine average. Instead of transferring them straight as Trammers Category IV wages, the Management resorted to a malpractice to deprive them of three increments in Category IV wages and one extra increment by resorting to a very ingenious method. They first transferred them as Category I General Mazdoors on basic pay of Rs. 15.00 w.e.f. 21-7-1982 and within 40 days they issued orders transferring them as Trammers in Category IV wages w.e.f. 1-9-1982. The wages of piece rated coal fillers are higher than Cat IV wages. By Memo of Settlement dated 28-9-1978; The Management agreed to treat the Coal fillers transferred on or after 1-1-1978 as if they were transferred w.e.f. 1-1-1979. For example if a coal filler is transferred as Trammer w.e.f. 1-1-1982 his transfer will be treated with effect from 1-1-1979 and he will get three service increments and one extra increment in Cat. IV wages. If these four increments are given the basic pay of the Trammer will be Rs. 19.87 ps. The Management by first transferring them as Cat. I General Mazdoors and then transferring them as

Trammer; fixed wages as Trammers at Rs. 17.75 ps. only. Thus the workers lost four increments of 53 paise each. During the said transitory period of 40 days also these workers worked only as Trammers. There is ample material to indicate that there were clear vacancies of Trammers. The contention of the Management that they were transferred as General Mazdoors category I on their own request is false and misleading. The question of assessment of vacancies of Trammers does not arise, the vacancies were in exercise. The action of the Management is made file and it is done, with a view to deprive the 16 workers from getting four increments. In fact these 16 workers refused to work as General Mazdoors for one month and they did not take letters of appointment as General Mazdoors. The Management then threatened that their juniors will be appointed as Trammers and made them to accept the letters dated 21-7-1982. As a matter of fact they never worked as General Mazdoors and even in the so called transitory period of 40 days they had worked only as Trammers. It is as clear as broad day light that these 16 workers have been acting as Trammers in clear vacancies from 1977 itself. There is requirement of Trammers in Somagundam No. 3 Incline. These 16 workers are eligible to get three increments under the Settlement dated 28-9-1978 and they are also entitled to one extra increment w.e.f. 1-9-1982 as per Memo of Settlement dated 29-1-1981. The Hon'ble Tribunal may consider the case sympathetically in the light of the facts and award three increments to which they are legitimately entitled and the extra increment due to them from 1-9-1982 and pass an award accordingly.

3. The counter filed by the Management runs thus : The various allegations in the claim statement are denied. The petitioner is put to strict proof of the same. These 16 workmen were originally appointed as Casual workers to discharge duties as per the instructions of the Management. They were appointed in view of the high absenteeism and exigency of work. In 1979 at Somagundam No. 3 Incline some clear vacancies of coal fillers of piece rated category arose, then these 16 people were confirmed as coal fillers. Then they worked continuously as coal fillers. The allegation that these workmen continuously acted from 1977 as Trammers is not correct. The Petitioners are put to strict proof of that allegation. From 1977 to 1979 they worked as Casual Labourers, they carried on whichever work was entrusted to them. It is not correct to say that they worked from 1977 to 1979 as Trammers. While these people were working as piece rated coal fillers for their own benefit they were requesting the Management to give them posts as General Mazdoor Category I which are time rated jobs. They were not able to provide them Category I General Mazdoor jobs immediately but in July 1982 when vacancies arose in Category I General Mazdoors these 16 workmen were appointed as Category I General Mazdoors. They were provided as General Mazdoor from Category of coal fillers and they were given their respective increments as per settlement dated 29-1-1981. The workmen received the orders and enjoyed the benefits. The allegation that they worked only for four or five days and then they were posted as Trammers is not correct.

4. In August 1982 certain new districts were opened at Somagundam Incline No. 3 and hence clear vacancies of Trammers posts arose. These 16 workmen had necessary seniority and acting experience as Trammers. Hence they were posted as Trammers. They were promoted from General Mazdoor Category I to Trammers w.e.f. 1-9-1982 and they were placed in proper grades. It is not correct to say that they have been deprived of increments as Trammers. The allegation that they should have been transferred as Trammers straightaway and put in Category IV wages is not correct. They are not entitled to three increments in Category IV. At the time of drafting these 16 workers to Category I General Mazdoors appropriate increments were given implementing the agreements dated 28-9-1978 and 29-1-1981. When the new districts were formed and Trammers posts arose they were placed properly as Trammers Category IV w.e.f. 1-9-1982. The allegation that they are entitled to one extra increment from 1-4-1980 is totally false. No malpractice has been resorted to by the Management as alleged in the claim statement. The posting of Category I General Mazdoors to the post of Trammers was done within 40 days because new districts were opened. Nothing has been done

by the Management intentionally. The Management followed the Company rules and procedures scrupulously. It is true coal fillers are piece rated employees and will be getting higher wages than Category IV. But the work of Coal fillers is strenuous and their earnings depend upon their turn out. Category IV employees wages and the Category I employees wages are based upon time rate. They are time rated employees. The settlement dated 29-1-1981 and the Settlement dated 28-9-1978 are read in the wrong perspective by the workmen in the claim statement. The interpretation of these agreements is not correct. The example given in the claim statement does not suit the facts of this case. The workmen are assuming that if they had been given the said jobs they would have got increments. There were no vacancies of Trammers nor were they posted as Trammers. They were promoted from Category I General Mazdoor to Trammers Category IV. During the transit period of 40 days they did not work as Trammers. It is not correct to say that they worked as Trammers in the new districts. The allegation that they worked through out as Trammers also is not correct. In August 1982 when new districts were opened then vacancies in posts of Trammers arose and then these people were promoted as Trammers. Prior to that as and when these people worked as Trammers in leave vacancies or in the case of exigencies of work, they were paid acting allowance. The petitioners have been transferred as General Mazdoor Category I on their specific request. There are no mala fides in the action of the Management. It is not true to say that by mala fide action and malpractice the workers were deprived of four increments. It is not correct to say that these 16 workmen refused to work as General Mazdoors and that they refused to take letters appointments. It is not correct to say that they were threatened and then they took letters of appointment. They took letters of appointment without objection and carried on the work as General Mazdoors Category I. Now a new story is introduced only with a view to gain sympathy of the Court. The allegation that they are working as Trammers from 1977 continuously is false. The petitioners are put to strict proof of the claim that they are entitled to three increments as per the earlier settlement and that they are entitled to one extra increment w.e.f. 1-9-1982 as per Settlement dated 29-1-1981. The Management acted in accordance with rules and action taken is perfectly correct. These workmen are not entitled to three increments and one extra increment claimed in this dispute. The reference may be terminated.

5. The crucial question in this case is whether there was any mala fide action or malpractice by the Management in transferring these 16 workmen first as Category I General Mazdoors and then as Category IV Trammers. When in fact they should have been posted directly as Category IV Trammers from the posts of Coal Fillers. The other incidental question is whether by virtue of the action of the Management these 16 workmen were unjustly deprived of the three increments to which they are entitled under the Settlement dated 28-9-1978 and the extra increments under Settlement dated 29-1-1981?

6. Point: On behalf of the workmen Kumari Ganga Ram gave evidence as WW-1. He stated that from 1978 he was working as Trammer. He was confirmed as Coal Filler in January 1980 and similarly the other 15 persons were also working as Trammers and then they were confirmed as Coal Fillers. All of them were promoted as Trammers at the same time in 1982. He admits that after working as Coal Fillers for some time they were promoted as Trammers. He also claims that while they were working as Trammers they were paid wages on mine average basis. Whenever a regular Trammer come back for their posts he and other 15 workers were being assigned other miscellaneous jobs as Coal Fillers. Thus there were some breaks in their working as Trammers. Under Settlement dated 28-9-1978 in cases of coal fillers being transferred to Time-rated jobs they would be governed under Clause 6 of the Settlement Ex. W-1. Under the agreement dated 29-1-1981 they are entitled to one extra increment for coal fillers transferred as time-rated employees. Clause 7 of Ex. W-2 would govern them. He admits that though they were acting as Trammers for a long time they were shown as General Mazdoor Category I for a short period and they were not transferred straightaway as Trammer Category IV. He claims that they first refused to take appointment orders as General Mazdoors Category I and

then the Safety Officer threatened them saying that unless they accept the letters of appointment under Ex. W-3 they would be removed from acting trammers posts and juniors would be entertained in those vacancies. Out of fear they accepted the orders which are originals of Ex. W-3. Within 40 days of Ex. W-3 they were again posted as Trammer Category IV under Ex. W-4 w.e.f. 1-9-1982. Even in the interregnum between 21-7-1982 and 1-9-1982 most of the period they were working as Trammers only. He claims that the workmen are aggrieved by reason of their posting as General Mazdoor Category I and then being promoted as Trammers Category IV. By this process the Management deprived them of four increments. He speaks about Exs. W-5 and W-6. In the cross examination the witness stated that he never put in an application to convert him as Category I General Mazdoor. He was threatened and made to write such an application. He denies the suggestion that on his request through a written application he was converted into Category I General Mazdoor. He claims that he did not accept this transfer as Category I voluntarily and he was forced by the Management to accept the posting as Category I General Mazdoor and then promoted as Trammers. He also states that though all these 16 workmen worked for three years on acting basis as Trammers they were not confirmed in accordance with the Standing Orders.

7. That the contention of the workmen correct as revealed by the admissions made by the witnesses MW-1 and MW-2. Before I deal with the oral evidence of MW-1 and MW-2, I would like to refer to the documentary evidence. Ex. W-1 is the Settlement dated 28-9-1978. We are only concerned with Clause 6 of this Settlement. Clause 6 deals with fillers transferred to time-rated categories. It clearly mentions that in the case of the fillers transferred to time-rated jobs of Category IV or below after implementation of National Coal Wages Agreement i.e. after 1-1-1975 their pay will be refixed assuming that they are appointed with the minimum of respective category as on that day namely 1-1-1975 if they are in service on that date as fillers and they will be allowed increments from the date of appointment or transfer to that category. The pay of such incumbents shall be refixed on proforma basis as on 1-1-1978 in the category to which they are appointed or transferred, and they will be paid on this basis w.e.f. 1-1-1978. The second limb of this clause reads as follows: "Cases of fillers transferred to time-rated jobs under category IV after 1-1-1978 also will be reviewed on the same basis as from the date of transfer only." Under Clause 6 of this Ex. W-1 it is crystal clear that there is a presumption and in case of transfer from Category of Coal fillers to any time rated jobs of Category IV or below pay will be refixed on the basis of that they are in the post on 1-1-1978 and three increments are available to them from 1-1-1975 to 1-1-1978. Refixation has necessarily to be done on assumption basis. Even for cases of transfers subsequent to 1-1-1978 also the same principle would apply.

8. Ex. W-2 is the copy of the settlement dated 29-1-1981. We are concerned with Clause 7 of this settlement. That clause reads as follows: "Fillers appointed/transferred to time-rated jobs and whose pay has been fixed in respective categories as per the existing procedure will now be allowed one extra increment with effect from 1-4-1980 or from the date of such transfer after 1-4-1980." Thus it is clear that from the date of transfer a coal filler transferred to time rated job would be entitled to extra increment. Ex. W-3 is the order dated 17/21-7-1982 under which these 16 workmen involved in this dispute were posted from the post of coal fillers to the post of Category I General Mazdoors and their basic pay was fixed at the bottom namely Rs. 15.00 per day. This has taken effect from 21-7-1982. Within two months two days of this order Ex. W-4 order was passed on 24-9-1982 appointing these 16 workmen as Trammers Category IV on basic pay of Rs. 17.75 w.e.f. 1-9-1982. We can see from a reading of Exs. W-3 and W-4 that only for one month nine days these 16 workmen were shown in records as Category I General Mazdoors. Now, in the oral evidence both MW-1 and MW-2 clearly admit that in this transitory period from 21-7-1982 to 1-9-1982 most of the period these workmen worked only as Trammers.

9. The workmen claim that the Management played fraud and issued Ex. W-3 order much against the wishes of the workers and malpractice is resorted to by issuing Exs. W-3 and W-4 only with a view to deprive them of the three incre-

ments and one extra increment rightly payable to them in the category of Trammers. Now in the counter the Management contends that there was no allegation of malpractice or malafides till the present claim statement is filed. But we find by reading Ex. W-5 the conciliation failure report that even at the stage of conciliation proceedings in January 1985 itself it was clearly mentioned that the Management resorted to malpractice to deprive them from getting three increments and the extra increment. By resorting to this method of posting them as Category I General Mazdoors for a period of 40 days though in fact they were working as Trammers. It can safely be said that from the very beginning the workers have attributed mala fides and malpractice to the Management regarding the procedure adopted for issuing Exs. W-3 and W-4 orders. Ex. W-6 is a notice given by the workers representative Sri B. Ganga Ram to the management that in this industrial dispute for a number of days nobody is attending the Tribunal on behalf of the Management and that on 25th November, 1986 they would definitely lead evidence in the industrial dispute.

10. The Management now comes forward with Ex. M-1 bundle of applications and claim that these are the application given by the workers requesting for posting as Category I General Mazdoors. A look at these documents clearly indicates that all these documents appear to be written or typed at the same time and thumb impressions are put perhaps they were forced to do so or perhaps they are fabricated. Ex. M-2 is nothing but a copy of Ex. W-3. In Ex. M-3 the fixation of salary as General Mazdoor is indicated. These people are fixed on the basic minimum of Rs. 15.00 per day in 1979 and then increments are granted and pay is refixed as Category I General Mazdoor. Ex. M-4 is nothing but a copy of Ex. W-4 dated 24-9-1982 promoting these 16 workmen as Trammers Category IV w.e.f. 1-9-1982.

11. MW-1 the Agent of Mines claims that these 16 coal fillers requested the Management to take them to Category I General Mazdoors and at no point of time did they allege that the Management forced them to go as Category I General Mazdoors. He admits that all these people were working as Trammers in the absentee vacancy and leave vacancy and sickness vacancy they were wellversed in the job of Trammers. He denied the suggestion that the Management threatened them and then forced them to accept posts as Category I General Mazdoors. He admits that he cannot say whether in Ex. M-1 bundle of applications signatures are genuine or not? He admits that these people acted as Trammers for most of the period. But he pretends ignorance when asked about exact dates and figures. He admits that all these people were paid acting allowance when they acted as Trammers. He then clinchingly admits that in the transitory period from 21-7-1982 to 1-9-1982 they acted as Trammers in the absentee positions. He further admits that they were confirmed in permanent vacancies of Trammers. He admits that he had records to show in what vacancy they have acted as Trammers and General Mazdoors but such records are not produced. The categorical admission of this witness that in the so-called transitory period from 21-7-1982 to 1-9-1982 they acted as Trammers is a clear indication that the claim of the workmen is perfectly correct.

12. MW-2 the Special Grade Clerk who was dealing with pay fixation comes forward with the theory that these 16 workmen wanted the Management to absorb them as Category I General Mazdoors. He claims that they never forced or coerced them to make a request to put them in category I. He speaks about their fixation of pay in Category I giving three increments and one extra increment under the two settlements Exs. W-1 and W-2. He speaks of Ex. M-3 under which fixation of wages was done in Category I General Mazdoor. In cross examination the witness admits as follows: "It is quite possible the applications of workers were typed in Company Office, and the parties signed them or put thumb marks." It is clear indication that they were either forced to give applications or these applications are bogus applications some how obtained. He admits that under the rules, if a person wants to come from Higher Category to a Lower Category he should make an application which is duly attested by two witnesses. None of the applications in Ex. M-1 bundle are attested by two witnesses. This is a clear indication that these are either forced or bogus applications. Considering the way in which the thumb im-

pressions are put, I have a feeling that they are bogus applications. Then the witness further admits that these 16 persons were working as Trammers since along time. He denies the suggestion that normally person acting as Trammer, tries to get himself confirmed as Trammer and they will not normally come to lower post of General Mazdoor Category I. Then the witness admits that in the transit period of 40 days these 16 persons who were appointed as General Mazdoors were actually doing work as Trammers. His statement runs as follows: "It is true in the case of these 16 persons within 40 days of their appointment as general mazdoors they were promoted as Trammers Category IV. It is true in this period of 40 days they acted as Trammers." After making these admissions the witness tries to put a hold face and claims that the Management did not resort to farce of Ex. M-1 letters of appointment appointing them as General Mazdoor Category I and then promoting them as Trammers within 40 days with a view to deprive them of their legitimate increments. He denied the suggestion that the Management deliberately did this to cause loss to the workers.

13. Reading evidence of MWs-1 and 2 and giving importance to admissions made by these witnesses I have no doubt in my mind that it is a clear case where the Management took advantage of the illiteracy of the workers and brought into existence the order Ex. W-3 appointing them as General Mazdoor Category I on 21-7-1982 with a view to deliberately cause harm to them and to deprive them of their legitimate increments. The very fact that from 21-7-1982 to 1-9-1982 they worked as Trammers and they were confirmed as Trammers w.e.f. 1-9-1982 under Ex. W-4 is a clear indication that the management resorted to unhealthy practice or mala fide practice and malpractice to deprive the workers of their legitimate rights. I hold the point in favour of the workmen.

14. For the various reasons indicated above, I hold on the point that the Management resorted to the mal practice or mala fide action of creating Ex. M-1 bundle of applications and then appointing them as Category I General Mazdoors with a view to deprive them of their legitimate increments. The action of the Management in not transferring them straight from the posts of Coal fillers to posts of Trammers Category IV is a mala fide action. By malpractice indulged by the Management they have deprived all the 16 workers of the four increments to which they are legitimately entitled under the terms of Settlements Exs. W-1 and W-2. The workers are entitled to three increments under Clause 6 of Ex. W-1 and they are also entitled to one extra increment under Clause 7 of Ex. W-2. This extra increment is due to them from the date of the transfer.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 21st day of December, 1988.

Industrial Tribunal

Appendix of Evidence

Witnesses Examined for the Workmen

WW-1—Kumari Ganga Ram.

Witnesses Examined for the Management

MW-1—Sukulal.

MW-2—K. Shankarajiah.

Documents marked for the Workmen

Ex. W-1—True copy of the Memorandum of Settlement arrived at under Section 12(3) of the I. D. Act, 1947 on 28-9-1978 at Kothagundam in the I. D. between the Management of S.C. Co. Ltd., and their workmen represented by (1) S.C. Workers Union and (2) Tandur Coal Mines Labour Union, over a charter of demands.

Ex. W-2—True copy of the Settlement arrived at under Section 12(3) of the I. D. Act, 1947 between the Management of S.C. Co. Ltd., and their workmen, represented by (1) S.C. Workers Union (2) Tandur Coal Mines Labour Union (3) Singareni Collieries

- Employees Union and (4) A.P. Colliery Mazdoor Sangh on 29-1-1981 at Hyderabad.
- Ex. W-3 Photostat copy of the appointment order dated 17-7-82 issued to Kumari Ganga Ram and 15 others by the Addl. C.M.E. B.D. II, S.C. Co. Ltd., Bellampalli.
- Ex. W-4—True copy of the appointment order dated 24-9-82 issued to Kumari Ganga Ram and 15 others by the Addl. C.M.E. B.D.K.S.C. Ltd., Bellampalli.
- Ex. W-5—True copy of the failure of conciliation report dated 31-1-1985.
- Ex. W-6—Letter dated 24-11-86 addressed to the General Manager, S.C. Co. Ltd., MM SMG, group of Mines, Kanyani Khani by B. Ganga Ram Chief Vice President, S.C. Workers Union (A.I.T.U.C) Bellampalli with regard to evidence in I. D. No. 35/85.
- Documents marked for the management.
- Ex. M-1—Bundle of applications pertaining to workers involved in I. D. No. 35/85.
- Ex. M-2—Photostat copy of the appointment order dated 17-7-82 issued to K. Ganga Ram and 15 others by the Additional C.M.E., B.D. II S.C. Co. Ltd., Bellampalli.
- Ex. M-3—Photostat copy of the statement showing the service particulars of K. Ganga Ram and 15 others.
- Ex. M-4—Photostat copy of the appointment order dated 24-9-82 issued to K. Ganga Ram and 15 others.

[No. L-21011/6/85-D II (3)]

D. J. JAGANNADHA RAJU, Presiding Officer

का. धा. 245.—औद्योगिक विवाद अधिनियम, 1947 (1947) का 14) की धारा 17 के प्रवृत्तन में, केन्द्रीय सरकार व संसद ई. सी. लि. की शानोरा कोलियरी के प्रबन्धन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गत में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-89 को प्राप्त हुआ था।

S.O. 245.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bhanora Colliery of M/s. E.C. Ltd., and their workmen, which was received by the Central Government on the 2-1-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 47 of 1986

PARTIES :

Employers in relation to the management of Bhanora Colliery of M/s. Eastern Coalfields Ltd.

AND

Their workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of Employers—Mr. R. S. Sharma, Advocate.

On behalf of Workmen—Mr. A. K. Lal Gupta, Advocate.

STATE : West Bengal.

INDUSTRY : Coal

AWARD

By Order No. L-19012(64)/85-D. IV(B) received on 16th June, 1986, the Government of India, Ministry of Labour

referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Bhanora Colliery of M/s. E.C. Ltd., in not giving employment to the dependants of S/Shri Ghamari, Water Mazdoor and Dinanath, Loader on their being declared medically unfit as per clause 10.4.3 of NCWA-II and clause 9.4.3 of NCWA-III and allow them to continue in their work till the date of superannuation on 1-7-1981 is justified? If not, to what relief the workmen are entitled?"

2 The case of the Union sponsoring the cause of the workmen concerned in brief as follows : The workman Ghamari was working as Water Mazdoor in the Bhanora Colliery of the management since 1955. Due to his suffering from diseases he applied for voluntary retirement on medical ground in 1981. The workman Dinanath was working as Loader in the said Colliery since 1960 and due to his suffering from various ailments he applied for his voluntary retirement on medical ground in 1981. The employer got them medically examined on 22-4-1982 by the Medical Board of the Colliery, which declared them medically unfit. Both the workmen concerned Ghamari and Dinanath submitted their applications for giving employment to their respective dependants son-in-laws Ramprabhao and Shambhunath Rajbhar in accordance with the clause 9.4.3 of the National Coal Agreement-II (NCWA-II for brief) which was in force at the relevant time. The employer however did not give employment to the dependants of the concerned workmen but compelled them, although medically unfit to continue in employment till the date of their superannuation. The case of the workmen concerned was taken up by the Union and during the conciliation proceeding before the Conciliation Officer, the employer took-up the plea that the workmen concerned failed to produce the certificates of the relationship of their alleged dependants. The failure report of the Conciliation Officer resulted in the present reference.

3. The short case as made out in the written statement of the employer is as follows: The reference is not at all maintainable as there was no industrial dispute in the present case as Ghamari and Dinanath by their superannuation on 1-7-1981 were not the workmen when the dispute was raised in 1985 and accordingly there being no industrial dispute, the reference is not maintainable. According to the employer, the dispute being overstate the reference should be rejected. Clause 10.4.3 of NCWA-II which remained in force upto 31st December, 1982 is not applicable to the present case as the dispute arose in 1985 long after the expiry of the NCWA-II. It was further contended by the employer that both the workmen concerned applied for voluntary retirement on the ground of their ill-health and also expressed their desire for giving employment to their sons-in-law Ramprabhao and Shambhunath Rajbhar just before their superannuation but both the workmen concerned could not produce the certificate of their relationship with the alleged dependants. According to the employer both the workmen concerned do not have any sons-in-law. It has been denied that both the concerned workmen were compelled to continue their service upto the date of their superannuation on 1-7-1981. They continued in service till the date of their superannuation and failed to produce the certificate of their relationship with the alleged dependants. The employer was accordingly justified in allowing the concerned workmen to continue in their work till their superannuation.

4. Both sides have adduced evidence, oral and documentary and have made submission through their learned advocates.

5. Mr. Sharma, Learned Advocate for the employer has challenged the maintainability of the reference on two specific grounds. His first ground is that the dispute was raised in 1985 by the retired workmen Ghamari and Dinanath, who were superannuated from their respective service with effect from 1-7-1981. According to Mr. Sharma, Ghamari and Dinanath were not the workmen after their retirement on superannuation on 1-7-1981 and accordingly the dispute raised by the said retired workmen and sponsored by the Union is not the industrial dispute. Mr. Lal Gupta, Learned Advocate for the Union has however submitted that actually the dispute arose in 1981 before the retirement of the con-

cerned workmen on superannuation when they were declared medically unfit and they were allowed to continue their service without giving employment to their dependents. The evidence, both oral and documentary as produced by the retired workmen concerned however does not support such submission of Mr. Lalgupta. Annexure-A to the written statement of the Union rather goes to show that the dispute arose in 1985 before the Conciliation Officer. No other evidence, either oral or documentary could be produced by the Union to show that the dispute was actually raised before 1-7-1981, the date of the superannuation of the retired workmen concerned. In the circumstances as mentioned above, it appears that both Ghamari and Dinanath were not the workmen at the time when the dispute was raised. Such being the position, I find that there was no industrial dispute as defined in the Industrial Disputes Act, 1947. I therefore find substance in the submission of Mr. Sharma in this respect. The reference is thus found to be not maintainable.

6. Mr. Sharma's second ground for challenging the maintainability of the reference on the ground of its being overstate is also not without substance. According to the written statement of the Union, both the retired workmen concerned were declared medically unfit on their application for voluntary retirement on the ground of ill-health on 22-4-1981 only about two and half months before the date of their superannuation. The materials produced by both parties indicate that both the concerned retired workmen through their Union raised the dispute in 1985 and not before. Both the concerned retired workmen could have raised the dispute even before their superannuation or immediately thereafter but they allowed several years to pass-by before they raised the dispute in 1985. So the dispute raised in this case is found to be overstate and on this ground also the reference stands the merit of rejection.

7. On merit also the retired workmen concerned could not make out a successful case to get any favourable answer in this reference. It is true that the employer has not specifically made any denial in their written statement with regard to the workmen's allegation that on their application for voluntary retirement on the ground of ill-health they were medically examined and declared medically unfit. But the evidence of the employer through MW-1 Mr. Bijoy Kumar Chatterjee, who was the Senior Personnel Officer in the Bhanora Colliery at the relevant time, shows that the medical reports, if any, in connection with the retired workmen concerned were not received by the Colliery. The retired workmen concerned have not produced the medical certificates. Be that as it may, MW-1 has admitted in his deposition that the concerned retired workmen had applied for voluntary retirement on medical ground before their superannuation. In the face of such evidence and in the absence of any specific denial in the employer's written statement, it can be held that both the retired workmen concerned applied for voluntary retirement on medical ground and they were declared medically unfit about two and half months before their superannuation.

8. NCWA-II came into force from 1st January, 1979 and remained in force upto 31st December, 1982. So clause 10.4.3 of NCWA-II was applicable to the case of the concerned retired workmen before their superannuation in July, 1981. Their retired workmen concerned have claimed the benefit of clause 10.4.3 of NCWA-II which deals with the employment of one dependent of the worker who is permanently disabled in his place. Sub-clause (i) of clause 10.4.3 enjoin as follows :

“(i) The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be certified by the Coal Company concerned.”

The workman to get the benefit of clause 10.4.3 thus will have to show that his disablement which arose from his disease is of a permanent nature resulting in the loss of employment and it should be certified by the Coal Company concerned. The retired workmen concerned in this reference could not comply with the requirements as enjoined in clause 10.4.3 of NCWA-II. The mere declaration of medically unfit with regard to the concerned retired workmen by the Medical Officer or Board, as the case may be, without specifying that the said unfitness arising from disease is of permanent nature cannot comply with the first requirement of clause 10.4.3 of NCWA-II. In the instant case it

is an undisputed fact that both the concerned retired workmen continued in their employment till the date of their superannuation on 1-7-1981. According to the concerned retired workmen they were compelled to continue their service whereas according to the employer, the retired workmen concerned continued in their service as they could not produce relationship certificate of their alleged dependents. The retired workmen concerned in their evidence however did not say that they were compelled to continue in their service till the date of their superannuation, although it was so stated in their written statement. MW-1 D. K. Chatterjee, who used to look after the personal management and industrial relations as Senior Personnel Officer has stated in his evidence that the concerned retired workmen were not forced to work in the colliery upto the date of their superannuation inspite of their sickness. The attendance sheet Ext. M-1, attendance register Ext. M-2, bonus register Ext. M-3 and wages sheet Ext. M-4, besides the oral evidence show that both the retired workmen concerned worked upto the date of their superannuation of 1-7-1981. Such being the position, and in the absence of evidence on the side of the retired workmen to the effect that they were compelled to continue in work inspite of their sickness and medical certificates about their unfitness, it can not be said that they were forced to continue in service till the date of their superannuation by the employer. The retired workmen concerned got their wages upto the date of their superannuation, so it could not be proved that the alleged disablement of the retired workmen concerned on the basis of the medical certificates resulted into loss of their employment. The retired workmen concerned could not show also that their such disablement as certified by the Medical Officer was certified by the coal company concerned, thereby implying that the appropriate authority of the colliery accepted such medical certificate. In the facts and circumstances as discussed above I find that the retired workmen concerned failed to establish that the conditions as laid down in clause 10.4.3(i) of NCWA-II were complied with.

9. Mr. Lalgupta the Learned Advocate for the Union has submitted that the employer has adopted the unfair labour practice without implementing the clause 10.4.3 of NCWA-II by allowing the concerned retired workmen to continue in service till the date of their superannuation and by not giving employment to their dependents. I cannot accept such submission of Mr. Lalgupta as sustainable in view of the facts and circumstances as mentioned above showing that the conditions as laid down in clause 10.4.3 of NCWA-II were not complied with. The mere declaration of the retired workmen concerned as medically unfit by the doctor does not fulfil the conditions as laid down in the said clause. It also does not stand to reason why only about two and half months before their superannuation they should go to file the application for voluntary retirement on health ground, if they could continue their service as before upto their date of superannuation on 1-7-1981. Be that as it may, the retired workmen concerned could not prove that their alleged sickness made them permanently disabled resulting in the loss of their employment. Such being the position, the employer was not under any obligation to give employment to their dependents and the facts and circumstances as discussed above also indicate that the employer was not prejudiced in allowing the concerned retired workmen to continue in service upto the date of their superannuation on 1-7-1981 when they voluntarily continued in service inspite of their medical examination.

10. As regards the relationship of the concerned retired workmen with their respective sons-in-law, the retired workmen concerned have adduced evidence both oral and documentary. Ghamari, WW-2 has said on oath that WW-1 Ramprabho is his son-in-law. Similarly Dinanath, WW-3 has said on oath that WW-4 Shambhunath Rajbhar is his son-in-law. Both Shambhunath Rajbhar (WW-4) and Ramprabho (WW-1) have also stated in their evidence that they are respective son-in-law of Dinanath and Ghamari. The affidavit Ext. W-5 sworn by Ghamari with all annexures thereto also supports the aforesaid evidence. It is true that in the affidavit of Dinanath Ext. W-6 has been mentioned that Dinanath's daughter Moti was married to Mushafir Ram but other annexures to the said affidavit clearly indicate that Mushafir was father of Shambhunath Rajbhar. This affidavit was marked exhibit at the instance of their employer, but the discrepancy in affidavit was not confronted to Shambhunath Rajbhar at the time of his giving evidence. Mr. Lalgupta has submitted that by mis-

take the name of Mushafir Ram has been mentioned in the affidavit in place of Shambhunath Rajohar. The affidavit was written in English and Dinanath was illiterate. So I find substance in such submission of Mr. Lal Gupta. Be that as it may, the oral evidence on the side of the retired workmen concerned has established that Ramprabha is the son-in-law of Ghamari and Shambhunath Rajohar is the son-in-law of Dinanath. Their evidence has also established that Ghamari and Dinanath have no other dependants except their respective sons-in-law and that their sons-in-law are living with them along with their wives mostly. The certificates as attached to the affidavits also have established the afore-said relationship. It however appears that the afore-said certificates with regard to the relationship could be procured only in 1987. It could not be satisfactorily proved that similar certificates were furnished to the employer before the superannuation of the retired workmen concerned in July, 1981, although an attempt was made while giving oral evidence that the certificates were produced in 1981. No documentary evidence could be shown to the said effect.

11. In the facts and circumstances as discussed above, I find that the action of the management of Bhanora Colliery in not giving employment to the dependents of Ghamari and Dinanath was not unjustified and the action of the management in allowing Ghamari and Dinanath to continue in their work till the date of their superannuation on 1-7-1981 was not also unjustified.

12. In the result, I hold that the retired workmen Ghamari and Dinanath are not entitled to any relief.

This is my Award.

Dated, Calcutta,

The 21st December, 1988.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012/64/85-D.IV(B)]

नई दिल्ली, 10 जनवरी, 1989

का. प्रा. 246—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-89 को प्राप्त हुआ था।

New Delhi, the 10th January, 1989

S.O. 246.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 5-1-89.

ANNEXURE

BEFORE SHRI G. S. KALRA : PRESIDING OFFICER :
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL :
NEW DELHI

I.D. No. 75/87

In the matter of dispute between :

Shri. Ram Naresh through
Regional Secretary,
All India Class IV Employees Union, FCI,
Block No. 19, Flat No. 281, Krishi Kunj,
I.A.R.I., New Delhi.

Versus

The Dy. Manager (Civil Engg.),
Food Corporation of India, Food Depot,
Mayapuri, New Delhi.

115 GI/89—6.

APPEARANCES :

Shri S. R. Pandey.—for the workman.

Shri Prem Bihari Lal with Sh. V. K. Puri for management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/100/85-D.II(B), dated 24-8-1987 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of the Regional Secretary, All India Class IV Employees Union, Food Corporation of India, that Shri Ram Naresh, be re-instated into employment, is justified? If not, to what relief the concerned workman is entitled to?"

2. As the dispute has been settled between the parties it is not considered necessary to set forth in detail the pleadings of the parties. Shri V. K. Puri on behalf of the Management has given up the statement that the Management will take back the workman into service as a casual muster roll labourer w.e.f. 1st January, 1989 till the regularisation as and when the vacancy arises. This offer was accepted by Shri S. R. Pandey representative of the workman and he gave up all other claims on behalf of the workman. Accordingly, it is directed that the workman shall be taken into service as casual muster roll labour w.e.f. 1-1-89 till his regularisation as and when the vacancy arises. This reference stands disposed of accordingly.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

G. S. KALRA, Presiding Officer,
23rd December, 1988.

[No. L-42012/100/86-D.II(B)]

का. प्रा. 247—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-1989 को प्राप्त हुआ था।

S.O. 247.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 5-1-89.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL :
NEW DELHI

I.D. No. 78/87

In the matter of dispute between :

Shri Satya Narain through the Regional Secretary,
All India Class IV Employees Union,
FCI, Block No. 69, Flat No. 281,
Krishi Kunj, I.A.R.I., New Delhi.

Versus

The Dy. Manager (Civil Engg.),
Food Corporation of India, Food Depot,
Mayapuri, New Delhi-110064.

APPEARANCES :

Shri S. R. Pandey.—for the workman.

Shri Prem Bihari Lal with Shri V. K. Puri for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/99/86-D.II(B), dated 24-8-1987 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of the Regional Secretary, All India Class IV Employees Union, Food Corporation of India, that Shri Satya Narain, be reinstated into employment, is justified? If so, to what relief the concerned workman is entitled?"

2. As the dispute has been settled between the parties it is not considered necessary to set forth in detail the pleadings of the parties. Shri V. K. Puri on behalf of the Management made statement that the Management will give fresh appointment to the workman as a Sewerman w.e.f. 1st January, 1989. Shri S. R. Pandey on behalf of the workman accepted the offer and gave up all other claims on behalf of the workman. Accordingly it is directed that the workman shall be given fresh appointment w.e.f. 1-1-89 as a Sewerman. This reference stands disposed of accordingly.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

23rd December, 1988.

G. S. KALRA, Presiding Officer.
[No. L-42012/99/86-D.II(B)]

का. भा. 243.—औद्योगिक विवाद अधिनियम, 1947 (1947) का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम के प्रबन्धन के सम्बन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-89 को प्राप्त हुआ था।

S.O. 248.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen which was received by the Central Government on the 5-1-89.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NEW
DELHI

I.D. No. 74/87

In the matter of dispute between :

Shri Charanjit Singh,
through The Regional Secretary,
All India Class IVth Employees Union,
FCI, Block No. 19, Flat No. 281,
Krishi Kunj ? IARI, New Delhi.

Versus

The Deputy Manager,

Food Corporation of India, Mayapuri,
New Delhi.

APPEARANCES :

Shri S. R. Pandey—for the workman.
Shri Prem Bihari with Sh. V. K. Puri—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/98/86-D.II(B) dated 24-8-87 has re-

ferred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of the Regional Secretary All India Class IV Employees Union, FCI, that S/Shri Ram Naresh, Satya Narain and Charanjit Singh, be reinstated into employment, is justified? If so, to what relief the concerned workmen are entitled to?"

2. Shri S. R. Pandey appearing for the workmen made statement that he did not wish to pursue this dispute and if may be treated as withdrawn. Accordingly 'No dispute' award is given and this reference stands disposed of accordingly.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

23rd December, 1988.

G. S. KALRA, Presiding Officer
[No. L-42012/98/86-D.II(B)]
R. K. GUPTA, Desk Officer

नई दिल्ली, 9 जनवरी, 1989

का. भा. 249.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा घोषित है कि पाइराइट्स खनन उद्योग को, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 20 के अन्तर्गत आता है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (क) के उपखंड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लक्ष्य प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है

[संख्या एस. 11017/1/80—डी1(ए)]

New Delhi, the 9th January, 1989

S.O. 249.—Whereas the Central Government is satisfied that the public interest requires that the services in the Pyrites Mining Industry, which are covered by entry 20 in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act, for a period of six months.

[No. S-11017/1/80-D.I(A)]

नई दिल्ली, 10 जनवरी, 1989

का. भा. 250.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना घोषित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (क) में उपखंड (vi) के उपबंधों के अनुसरण में, भारत सरकार के अथ मंत्रालय की अधिसूचना संख्या का. भा. 2551 दिनांक 8 अगस्त, 1988 द्वारा बैंक नोट प्रेष सेवा (मध्य प्रदेश) को उक्त अधिनियम के प्रयोजनों के लिए 8 अगस्त, 1988 से छह मास की कालावधि के लिए उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (क) के उपखंड (vi) के उपखंड द्वारा

प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रिय सरकार उक्त उद्योग को उक्त अधिनियम के प्रावधानों के लिए 8 फरवरी, 1989 से छः मास की और कलवधि के लिए उपरोक्त सेवा घोषित करती है।

*[संख्या एन-11017/14/85-डी-2(ए)]

नन्द लाल, अधिवक्ता

New Delhi, the 10th January, 1989

S.O. 250.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 8th August, 1988;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 8th February, 1989.

[No. S-11017/14/85-D.I(A)]
NAND LAL, Under Secy.

नई दिल्ली, 11 जनवरी, 1989

क.प्र. 251—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रिय सरकार सेंट्रल सेरिकल्चरल रिसर्च ट्रेनिंग इंस्टीट्यूट के प्रबन्धन में सम्बद्ध नियोजकों और श्रमिकों के बीच आने वाले औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिनियम, 1947 के प्रावधानों को प्रकाशित करती है, जो केन्द्रिय सरकार को 3-1-89 प्राप्त हुआ था।

New Delhi, the 11th January, 1989

S.O. 251.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Sericultural Research Training Institute and their workmen which was received by the Central Government on the 3rd January, 1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated 28th December, 1988

Central Reference No. 88/87

(Old No. 3/1987)

I PARTY:

Shri Nanjaiah
No. 3411, 7th Cross
Hosaietti Gejuda
Mysore

Vs.

II PARTY:

The Director
Central Sericulture Research
and Training Institute
Srirampuram
Mysore.

APPEARANCES:

For the I party—Shri R. Mohan Kumar, President
CSRTI Workers Union.

For the II Party—Shri S. Subba Krishna, Advocate.

115 GI/89-7

AWARD

By exercising its powers under Section 10(1)(d) and (2A) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute vide its Order No. L-42012/50/85-D. II(B) dated 16th December, 1986. Originally, the reference was made to Industrial Tribunal, Bangalore. Subsequently, it was transferred to this Tribunal by a General Order No. S-11025/1/87-D. IV(B) dated 16th/23rd November, 1987. It is at Sl. No. 1.

POINT OF REFERENCE

"Whether the action of the Management of Director Central Sericultural Research & Training Institute, Srirampuram, Mysore in terminating the services of Shri Nanjaiah w.e.f. 1st April, 1985 is justified? If not, to what relief the workman concerned is entitled to?"

2. The I party workman, in his claim statement, has stated as follows:

He was engaged as a time-scale labour by the II party in the scale of Rs. 165 per month. He has put in more than 20 years of service. He was made to work in poor working conditions and on low wages. The II party denied him his legitimate benefits. The labour legislations were not made applicable. The efforts of the workman to get their grievances redressed failed. The I party and other workmen joined the union. He took active part in organising the trade union. The management got prejudiced against him. It started adopting anti-labour and anti-union attitude and indulged in unfair labour practice. It issued a false and fabricated chargesheet. He was kept under suspension. An unfair enquiry was held against him. He was dismissed from service on 1st April, 1985. He has been victimised. Proper opportunity was not given to him to defend himself. The enquiry was an empty formality. The order of dismissal may be set aside. He may be reinstated and given all the consequential benefits.

3. The II party has filed its counter statement and inter alia, it is contended as follows:

It is not an industry within the meaning of section 2(j) of the I.D. Act. The definition of industry excludes all educational, scientific, research and training institutions. The second party has been constituted under an Act known as Central Silk Board Act 1948. It carries out research work. Its activity is to make research on the mulberry plant, evolving different varieties of plants to improve the leaf field. To keep such plants healthy, regular operations like, digging, weeding, forming ridges and furrows are carried out. The entire process does not involve any activity which can be called as an industry. Training is imparted to the trainees both from within and outside the country. The criteria laid down in the case of B.W.S.S.B. Vs. A. Rajappa is not attracted. The reference is not maintainable. A preliminary issue may be framed on that point. Domestic enquiries were conducted against these workmen for various acts of misconduct and then they were terminated. It is not correct that they were made to work with low wages and in poor working conditions. The said allegations are not relevant. It is denied that the representations made by these workmen for redressal of their grievances were not considered, that they joined the I party union, in order to improve their service conditions and that they took active part in organising the trade union. It is denied that the management adopted any anti-labour attitude. It is false that their services were terminated on false and fabricated charges or that they are victimised for their trade union activities. It is not correct that they were not provided with proper opportunity to defend themselves. They were issued with chargesheets for the acts of misconduct committed by them. They submitted that they do not know English and then the chargesheets were translated into Kannada and translated copies were given to them. Each one of them has given his explanation. Since their explanations were not satisfactory, separate domestic enquiries were held against them. Translated copies of the documents were given to them. The proceedings were held in Kannada. They were assisted by a co-employee. List of witnesses were given to them. All the witnesses have been cross-examined by them.

No principle of natural justice has been violated. Some members of the I party have been indulging in violent acts and they instigated the other workmen. They created unrest among the workmen. They have committed acts subversive of discipline. They have made the II party to lose confidence in them. To continue them in service will impair and mar the smooth and proper working of the II party. They are not entitled to be reinstated. The Enquiry Officers found them guilty. Second show cause notices were issued to them. On taking into account, all the material on record, their services were terminated. There are no service rules or standing orders of the II party. The model standing orders do not apply. The provisions of Section II-A do not apply. The reference may be rejected.

4. In view of the said pleadings, two preliminary issues were framed as follows:

ISSUES

- (1) Whether the II party is not an industry?
- (2) Whether the II party proves that it has held the domestic enquiry in accordance with law?

5. Issue No. 2 was taken up as a preliminary issue. The II party management examined MW-1, the Enquiry Officer, and got marked Exs. M-1 to M-9.

6. For the I party the workman himself was examined and Exs. W-1 to W-4 were got marked.

7. The parties were heard.

8. By a considered order dated 26th August, 1988, it was held that the enquiry held by the management is in accordance with the law.

9. The parties were then called upon to adduce evidence on rest of the points.

10. Thereafter, the management recalled MW-1. On 4th November, 1988, both the parties filed a joint memo to treat the oral and documentary evidence in C.R. No. 76/87 as the evidence in this case also. Since the facts and the point of law involved in both the references are the same, their prayer was allowed.

11. The parties have heard and their written arguments have been taken on record.

12. My finding on the Issue No. 1 and the point of dispute are as follows:

ISSUE NO. 1.

The II party is an industry and the reference is maintainable.

POINT OF DISPUTE

The action of the management in terminating the services of Shri Nanjaiah with effect from 1st April, 1985 is not justified, though it is proved that he did indulge in acts of misconduct. The management shall substitute the order of punishment and shall give him the benefits as shown below:

REASONS

ISSUE NO. 1

12. As observed earlier, the parties have themselves agreed that the evidence in C.R. No. 76/87 shall be the evidence for the purpose of present case also. In C.R. No. 76/87 and C.R. No. 28/87, a considered order has been passed dated 1st January, 1988 that the II party is an industry. The said order holds good for the present case also. A final award has been passed in the said cases and I do not find it necessary to reproduce the said order. On Issue No. 1, it is held that the II party is an industry and that this Tribunal has the jurisdiction to entertain the reference.

POINT OF DISPUTE

13. Perversity has two tests. The first test is whether the Enquiry Officer has recorded his findings on no evidence. The second test is whether any reasonable person could have arrived at the findings complained of.

14. MW-1 Dwarakanath is the Enquiry Officer who has conducted the enquiry against him. Ex. M-1 is the chargesheet issued to the workman. It shows that he was charged with the following acts of misconduct:

- (1) Leaving the work spot without permission,
- (2) Inciting other workmen to slow down work;
- (3) Threatening and intimidating other workmen;
- (4) Causing obstruction; and
- (5) Committing acts subversive of discipline.

Exs. M-2 and M-3 were the notices sent to him. There is no dispute that he had appeared before the Enquiry Officer. He had given his reply as per Ex. M-4 and had denied the charges. The Enquiry Officer then conducted an enquiry against him. Ex. M-5 is the proceedings from pages 9 to 77. The Enquiry Officer has stated that Ex. M-6 was the list of witnesses and Ex. M-7 the list of documents given to him. The management relied upon various documents and the bunch is marked as Ex. M-8. They are at pages 80 to 107. The Enquiry Officer has then given his findings as per Ex. M-9. The report is at pages 108 to 131. The Enquiry Officer has explained that because the workmen contended that he does not understand English, copies of the documents were translated into Kannada and given to him. The Enquiry Officer had held the enquiry in Kannada. It is alleged that the workman had filed his objection as per Ex. W-1. Ex. W-1 dated 16th November, 1983 reads that the Enquiry Officer should not permit the management to file an additional list of witnesses, since the list of witnesses had been already given. In my opinion, it cannot be said that the Enquiry Officer committed any illegality in permitting the management to file the list of witnesses and the list of documents, as shown in Ex. M-6 and M-7 and then permitting the management to file additional list of witnesses. Exs. W-2 and W-4 are letters exchanged between the parties to the effect that the workman sought for Kannada translations and the management supplied the same. Ex. W-3 is a chargesheet dated 1st December, 1980 issued to the workman on an earlier occasion. The four documents filed for the I party do not show that the Enquiry Officer relied upon any document which was inadmissible in evidence.

14. In Para 4 of his evidence WW-1 Nanjaiah has sworn that the management threatened him not to produce his evidence and that the management further threatened his witnesses. In order to support his evidence, the workman has examined his assistant WW-2 Mahadeva. The cross-examination of WW-2 Mahadeva discloses that he does not remember whether in the written arguments, he has contended that the management had threatened his witness Dasappa. The evidence of WW-1 Nanjaiah and WW-2 Mahadeva is not supported by any document that the management had threatened either the workman or his witness from giving evidence in the enquiry. There is no such contention raised in the claim statement. It has not been shown that the enquiry held by MW-1 Dwarakanath was only a farce of an enquiry, as alleged. Secondly, a considered order, already, has been passed, as regards the validity of the domestic enquiry.

15. The report of the Enquiry Officer, Ex. M-9 deals with the evidence of the witnesses from pages 108 to 126. Before the Enquiry Officer, the I party workman relied upon the judgement of the criminal court. Obviously, the Enquiry Officer was not bound by the judgement of the criminal court. The Enquiry Officer has relied upon the evidence of witness, Basavaraj, since it was supported by the Attendance Register and has held that the workman used to be absent from his spot of work, as alleged. The evidence of other witness has been accepted on the ground that it is mutually corroborative and that it has established the allegation that the workmen obstructed other workmen and threatened them. Since, these acts constituted a misconduct of acting in a manner subversive of discipline, the Enquiry Officer has held that he has indulged in a conduct which is subversive of discipline.

16. On going through the evidence placed before the Enquiry Officer and his report at Ex. M-9, I am of the view that it cannot be said that no reasonable person could not have arrived at the conclusions complained of.

17. As regards the contention of the workman that the II party has indulged in unfair labour practice and that

it has victimised them, the parties have adopted the same evidence, as has been subsequently recorded in C.R. No. 23/87 and 76/87. The finding on that aspect in the common award passed in those cases is at paras 51 to 65. The said reasoning is reproduced here for the purpose of the present reference also.

GENERAL DISCUSSION RELATING TO CR 28/87, 76/87 AND 188/87

18. In para 5 of the claim statement, it has been contended in CR 28/87 that the workmen have been victimised for their legitimate trade union activities. In the claim of statement of M. Mahadeva, CR 76/87, it has been contended that because the workmen were made to work in poor working conditions and on low wages, the workmen organised the I party union and made representations to the management for redressal of their grievances. It is further contended that as a result of conciliation, some settlement was arrived at and the management had agreed to increase their wage by Re. 1 day. It is further alleged that the management however insisted on the increase in the work load, for which the workmen resented and then the II party adopted an anti-labour attitude and started indulging in unfair labour practice and victimised them. It is further alleged that these workmen and some others, in all, 13 were suspended and that enquiries were held against them on fabricated charges and that their orders of dismissal are not legal. It has been then contended that the punishment imposed on them is highly disproportionate.

19. As has been observed earlier, the evidence in CR 28/87 and 76/87 is common in regard to the case of the parties on the point of unfair labour practice and victimisation. In that connection WW-1 Mahadeva has given evidence on 17th October, 1988. His evidence discloses that he has been the General Secretary of the I party union since 1977 and that in regard to the demands made by the workmen, there were negotiations and settlements. He further states that on 15th September, 1980, the management had issued a letter showing the work load of each workman, but it was not a part of the settlement. In para 41 of his evidence, WW-1 Mahadeva further states that when they had gone to receive their salary of November 1980 in December, 1980, the management had prepared one proforma undertaking and insisted that each workman should give that undertaking and if the workman did not turn up the required quantity of work, he will receive only so much of wages proportionate to the work turned out by him. He has further sworn that the management had sought the aid of the police and then levelled charges against them and also filed criminal complaints. The management itself has produced the original documents at Exs. M-14 to M-16 (in CR 76/87). The originals have been returned and the xerox copies have been marked as Ex. M-14(a) to M-26(a). Ex. M-14(a) is the settlement dated 1st August, 1980. Ex. M-15(a) is the settlement dated 10th December, 1978. It shows that the workmen were represented by WW-1, M. Mahadeva, and that he was then the Assistant Secretary. Ex. M-16(a) dated 21st June, 1979 discloses that the management had agreed to increase their wages by Re. 1 per day. Ex. M-17(a) dated 15th September, 1980 is a letter by the Director to the workmen showing the work load of each workman. Ex. M-18(a) is a memo issued by the Director to the workmen. It shows that it was issued with reference to memo dated 15th September, 1980, Ex. M-17(a) and it calls upon the workman to give the work as shown in Ex. M-17(a). Ex. M-19(a) is a notice issued by the Director dated 6th October, 1980 to show that the Director again called upon them to turn out the work as shown in Ex. M-17(a). Ex. M-20(a) dated 4th November, 1980 is another memo on the same subject. It further states that in case they fail to turn out the required quantum of work, they will be paid proportionate wages only. Ex. M-21(a) dated 5th December, 1980 states that the workmen had not given the required undertaking and that they had not improved in giving work and that they will be paid only proportionate wages. The evidence of WW-1 Mahadeva is thus substantiated by these documents at Exs. M-14(a) to M-20(a). It is conceded in the counter statement itself that there was partial lock out. The notice of lock out at Ex. M-22(a) substantiates that fact. Ex. M-23(a) shows that the said lock out was lifted

on 18th April, 1981. From the dated of Ex. M-22(a) i.e. dated 22nd December, 1980 till the date of Ex. M-23(a) dated 18th April, 1981, there was thus strained relationship between the management and the workmen and that there was a partial lock-out. Ex. M-24(a) further discloses that the management had again issued another notice of lock-out on 29th April, 1981 and that it was lifted by the notice dated 31st July, 1981 as per Ex. M-25. The minutes of the meeting between the parties dated 22nd May, 1986 at Ex. M-26(a) shows that the management agreed to reinstate 5 workmen, since the management agreed that the said workmen were not involved in the acts of misconduct. The evidence produced by both the parties shows that the relations between the parties were strained, because on the one hand the workman insisted upon the payment of the increased wages, whereas the management insisted upon the quantum of work and ultimately the management had to resort to two lock-outs. Except in the case of Chamaraju who is involved in two enquiries, the allegations made against the rest of the workmen in both the chargesheets is that they obstructed the other workmen from turning out the required quantity of work, that they threatened them, that in some cases they used bad language and thus involved themselves in acts of insubordination and acts subversive of discipline.

20. On page 906 of the Law of Industrial Disputes by O. P. Malhotra, 4th Edition, Volume 2, it has been stated that the Tribunal can interfere with the disciplinary action taken by the employer, if there is want of good faith or if there was victimisation or unfair labour practice or that the management has been guilty of basic error. The order of punishment itself may be a measure of victimisation, if the punishment is disproportionate to the act of alleged misconduct. It is asserted by the workmen that the workman M. Mahadeva was the General Secretary of the Union and these other workmen were the active members of the union. The management has also alleged in the chargesheets that these persons were the active members of the union and they had taken predominant part in seeing that the objectives of the management were fulfilled. If a workman has been over-anxious and has transgressed the ordinary limits of decency and required behaviour, the punishment of dismissal from service, which means civil death cannot be said to be proportionate to the alleged acts of misconduct.

21. The learned counsel for the II party has filed the written arguments. Therein, it has been contended that the II party is not an industry. The said submission does not hold water, since there is already a considered finding that the II party is an industry. The said party has contended that the provisions of the Industrial Employment (Standing Orders) Act, 1946 are not applicable to the II party. It has been contended that the II party is not an industrial establishment as defined in Section 2(ii) of the payment of Wages Act, nor a factory and therefore the provisions of the said act are not applicable. The definition of industrial or other establishment in section 2(ii) of the Payment of Wages Act shows that the II party does not fall within any of the clauses from (a) to (g) of the said provision. Clause (h) also does not apply, for the reason that the Central Government has not declared the II party as an industrial establishment.

22. The learned counsel for the II party has then contended that the Law of Master and Servant governs the relationship between the parties and in that connection has placed reliance on the case of M/s. Shiva Flour Mills Vs. The workmen (AIR 1970 Patna page 273). The authority supports his contention.

23. The II party has placed reliance on the case of Burn and Co., Calcutta Vs. Their Employees (AIR 1959 S.C. page 529). The authority is on the point that if a workman systematically absents himself from work without permission or leave, he acts in gross violation of discipline. The facts of these cases at hand disclose that on account of their grievance that the management had imposed the workload unilaterally, they had tried to see that the workman resorted to work to rule and in some cases prevented the loyal workers from attending to their work. It is not a case where the workmen had made it a habit to absent themselves regularly and go on loitering. In the aforesaid background, in my opinion, it cannot be said that these workmen were guilty of such serious acts of misconduct which justify the action of the management in dismissing them from service.

24. With reference to the case of Gujarat Rubber Works Ltd. Vs. Their workman (1956 1 LLJ page 731), it has been stated in the written arguments that incitement to go slow is a serious misconduct and that a workman can be dismissed for the said act of misconduct. The facts of the reported case would show that the workman had caused loss to the employer and also to the industry concerned and in that context, it has been held that it was a serious act of misconduct. In the cases at hand, it has been already observed that because the management subsequently tugged workload for the already conceded increase in wages, the relations became strained and in that context, it cannot be said that there was a deliberate unilateral act on the part of the workmen to cause loss to the management. Since the facts of the reported case differ, I do not find that the misconduct committed by these workmen is of such a serious type.

25. In the written arguments, a reference has been made to the case of Workmen Vs. S. C. Industries (1954/55, FJXR (LAT)). The authority has not been placed before me. It is difficult to appreciate the contentions raised by the II party in the absence of the authority.

26. The II party has then referred to the case of Bathgates Employees' Union Vs. Bathgate and Co. Ltd. (1953 1 LLJ page 493). The authority has been relied upon to show that at the behest of some workmen, others adopted to go slow policy. In that context, it has been held that it is a serious act of misconduct. I have already discussed about the facts of the present cases, which made the workmen restive and to indulge in certain acts of misconduct. In my view, the facts of the reported case differ and the principle laid down is not attracted.

27. The II party has then relied upon the case of Bhoja Setty Vs. Management of K.S.R.T.C & another (1988 Kar. L.J. page 21). The facts of the reported case would show that when an employee was about to retire, a chargesheet was issued to him and he was dismissed from service. In the Labour Court, the court upheld the charges of misconduct but reduced the penalty of dismissal to one of withholding of three increments. The employee sought for backwages. The Hon'ble High Court has held that the charge of misconduct had been proved and that the labour court had properly held that he cannot be granted back wages. The authority has been relied upon to support their contention that in the present cases back wages need not be allowed.

28. In the file of M. Mahadeva, there is the order of dismissal. The relative portion states that the acts of misconduct alleged against him had been proved, that they are of grave nature, that his past record did not disclose any extenuating or mitigating circumstances and therefore he had been dismissed from service. In the additional written arguments submitted by the II party, it has been strongly contended that the acts committed by these workmen are of a serious nature and that the punishment imposed against them is proper and reasonable.

29. Item No. 13 of the first part of the 5th Schedule shows that failure to implement an award, settlement or agreement is an act of unfair labour practice. Again Clause (g) of Item No. 5 of the first part shows that if the employer imposes disproportionate punishment for an act of minor misconduct without having regard to the nature of the particular misconduct or the past record of the service of the workmen, it is an act of unfair nature. There is no dispute on the point that these workmen have put in several years of service. The order of dismissal is held in setting out that there are no extenuating or mitigating circumstances. The orders of dismissal of all these workmen have not been got marked. The order of dismissal of M. Mahadeva does not show about the facts of his previous record and whether he had indulged in any act of misconduct in the past. In my opinion, these acts of misconduct are of a minor character and imposing the punishment of dismissal is disproportionate.

30. For the I party the authority of Om Prakash Vs. State of Punjab (1981 (i) LLJ page 479) was relied upon. It shows that a duty lies on the Tribunal to see whether the workman has been victimised and whether it is a fit case to invoke the provisions of Section 11A of the I.D. Act. Reference was also made to the case of Madure Coats Limited Vs. Labour

Court [1981 (1) LLJ page 57]. The authority states that depending upon the facts and circumstances of the case, the court should invoke the provisions of Section 11A of the I.D. Act. In the context of the facts of the said case, it has been held that deprivation of back wages was enough punishment and it was sufficient to meet the ends of justice.

31. There is no dispute on the point that all these workmen have been acquitted by the criminal court.

32. The order of dismissal of Chamaraju and Shankarlinga is of May 1982. The orders of dismissal of Bommalingaiah and Papa are of 1984. The order of dismissal of Mahadeva is of 14 April, 1985. The workmen have established that they are unemployed since the time of their dismissals. They have already suffered loss of employment and emoluments for these years ranging from 4 to 6. It is an admitted fact that 5 workmen who were similarly placed have been already reinstated. They are as follows:

- (1) Rangaswamy.
- (2) Bhujangaiah.
- (3) Gavi.
- (4) Lakshamma; and
- (5) Arasanna.

It has not been established by the management that the chargesheets issued to them were not similar or that the evidence proposed to be adduced against them was different from the evidence now adduced against these workmen. In my opinion the loss of service and emoluments for these years is sufficient punishment for all these workmen except Chamaraju. Since the acts of misconduct alleged and proved against Chamaraju is of two chargesheets and serious in nature than the acts alleged against others, I find that the punishment of stoppage of one increment should be imposed against him in the place of the order of dismissal. In view of the aforesaid two authorities cited for the I party, I find it expedient to invoke the provisions of Section 11A of the I.D. Act.

33. In C.R. 188/87, the I party workman has further examined WW-2 M. Mahadeva, who had represented him in the domestic enquiry. The evidence of M. Mahadeva in C.R. 76/87 and the evidence recorded in C.R. 188/87 support the contention of the I party that the punishment imposed on him is highly disproportionate to the acts of misconduct alleged against him. There is no reason to impose a different punishment than what has been considered to be proper in the case of the other workmen viz., Shri Shankarlinga, Shri Papa, Shri Bommalingaiah and Shri Chamaraju. It is thus held that it will be in the ends of justice and it will promote good relationship between the workmen and the management and further there will be industrial peace and incentive for better production, if the punishment is modified to the same that has been ordered in case of the said others.

34. In the result, an award is passed to the effect that the management of Director, Central Sericultural Research and Training Institute, Srirampuram, Mysore was not justified in terminating the services of Shri Nanjaiah with effect from 1st April, 1985. It is ordered that the management shall reinstate him and shall grant him all the consequential benefits, except the emoluments for the period from the date of his dismissal till the date of his reinstatement. He shall be reinstated within one month from the date on which the present award comes into force. The management shall record that loss of emoluments for the said period shall be the only punishment for the said acts of misconduct.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer
[No. L-42012/50/85-D.II(B)]

का. या. 252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्र सरकार क्लेस एक्ट प्लान्ट के प्रबन्धन में सम्बद्ध निरीक्षकों और उनके कर्मचारियों के बीच, अनुबंध में निवृत्त औद्योगिक विवाद में केन्द्र सरकार औद्योगिक अधिकरण, बेंगलूर के पंचपद को प्रकाशित करती है, जो केन्द्र सरकार को 3-1-89 प्राप्त हुआ था।

S.O. 252.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Wheel, Axle Plant and their workmen, which was received by the Central Government on 3-1-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Bangalore, the 28th December, 1988

Central Reference No. 43/88

PRESENT :

I PARTY :

Shri Mallikarjuna and others.
Rep. by the President, Wheel,
and Axle Plant, Karmika Sangha,
118, New Street, Yelahanka,
Bangalore-560064.

Vs.

II PARTY :

The General Manager,
Wheel & Axle Plant,
Indian Railways,
Yelahanka,
Bangalore-64.

APPEARANCES :

For the I party.—No representation.

For the II party.—Shri. J. Nagaraj Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the Industrial Disputes Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-420011/31/86-D.II(B) dated 18-8-1988.

POINT OF DISPUTE

"Whether the Administration of Wheel and Axle Plant, Yelahanka, Bangalore is justified in

(i) Dismissing s/shri Mallikarjuna, K. R. Yavaram, B. S. Subbaramappa, H. B. Nagaraja and terminating the services of M. J. Ramachandra Rao?

(ii) not providing safety equipments to group 'C' and 'D' employees? If not, to what relief the said workers are entitled?"

2. Notice was sent to the I party union by registered post/Ack. due. The postal acknowledgment shows that the notice has been duly served on the president of the I party union. The matter was called on 13-9-88. The I party has committed default. However, again notices were sent under certificate of posting and registered post/ack. due. The I party has not turned up.

3. Shri J. Nagaraj, Advocate has filed a memo of appearance for the second party.

4. The second party was permitted to adduce evidence by affidavits and argue.

5. The second party has produced the counter statement, the affidavit of one Shri B. V. Subbaraya, Head Clerk, and has produced one document.

6. The learned counsel for the second party was heard.

7. The affidavit of Sri. B. V. Subbaraya shows that these persons shown in the order of reference were engaged in the second party in 1983 and 1984, that on 15-5-85 they were involved in an incident, and an enquiry was held against them. It is further stated by him that they are found guilty and consequently their services were terminated. It has been then sworn that they approached the Central Administrative Tribunal in application Nos. 1602, 1666 and 115 GI/89—8.

1711 of 1986 and that the Hon'ble Tribunal had remitted back the cases for fresh disposal. It is then stated that after the appeals were restored and heard, they were again dismissed, since they were found guilty. It is stated that then they again approached the Hon'ble Administrative Tribunal and challenged the order of dismissals and that their applications were partly allowed and that the authorities are directed to complete the disciplinary proceedings. In para 5 of the affidavit it is stated that the second party initiated the proceedings against them, but that these claimants have not filed any claim statement. The second party has pleaded that the reference may be rejected.

8. The order passed in application Nos. 536, 537 and 709 of 1987 by the Hon'ble Central Administrative Tribunal, supports the statements made by Shri Subbaraya in his affidavit. The II party has proved that it was justified in dismissing these workmen, whereas the workman have committed default and have not put forth any case or evidence. I find that the reference is liable to be rejected.

9. In the result, an award is passed to the effect that the Administration of Wheel and Axle plant was justified in dismissing S/Shri Mallikarjuna, K. R. Jayaram, B. S. Subbaramappa, H. B. Nagaraja and M. J. Ramachandra Rao. The I party has not proved that the II party had not provided safety equipments to group 'C' and 'D' employees. The workmen are not entitled to any relief.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.

B. N. LALGE, Presiding Officer

[No. L-42011/31/86-D.II(B)]

नई दिल्ली, 12 जनवरी, 1989

का.प्र. 253—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वयेण में, केन्द्रीय सरकार सेक्टरल सैरिक्लर रिमार्क और ट्रेनिंग इंस्टीट्यूट के प्रबन्धन के सम्बन्ध विवादों और उनके कर्मचारियों के बीच, अन्वयेण में निम्नित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण, बेंगलूर के पंचवट को प्रकाशित कर्ती है, जो केन्द्रीय सरकार को 3-1-89 को प्राप्त हुआ था।

New Delhi, the 12th January, 1989

S.O. 253.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Sericultural Research and Training Institute and their workmen, which was received by the Central Government on 3-1-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Bangalore, the 28th December, 1988

Central Reference Nos. 28/87 and 76/87

(Old CR. No. R/O CR. 28/87 IS 15/85)

In regard to CR. 28/87

I PARTY

(a) Mr. Shankarlinga (TSL)
Door No. 2540,
4th Cross, K. G. Koppal
Chamarajamohalla, Mysore.

(b) Mr. Papa (TSL)
Door No. 543,
12th Cross, Ashokapuram,
Mysore.

(c) Mr. Bommalingalah,
Door No. 2142, Ch 15
1st Cross, Ashokapuram,
Mysore-8.

- (d) Mr. Chamaraju (TSL)
Door No. C-44,
5th Cross, Asbokapuram,
Mysore-8.

Va.

II PARTY

The Director
Central Sericulture Research
and Training Institute,
Manandavadi Road,
Srirampuram,
Mysore-8.

APPEARANCES:

For the I Party—Shri R. Mohan Kumar, President
CSRTI Workers Union.

For the II Party—Shri T. N. Nagaraj, Advocate.
In regard to CR. 76/87

I PARTY:

Mr. M. Mahadeva,
No. 2402, 8th Cross
Madhavachar Road,
Mysore.

Va.

II PARTY:

The Director, Central,
Sericulture Research and
Training Institute,
Srirampuram, Mysore-570008.

APPEARANCES:

For the I Party—Shri R. Mohan Kumar, President
CSRTI Workers Union.

For the II Party—Shri S. Subba Krishna, Advocate.
Awards in CR. 28/87 and 76/87

On 24-10-1987, in C.R. No. 28/87, the parties of that case and also the parties of C.R. No. 76/87, filed a joint memo stating that the two references may be clubbed together, since common questions of law and fact are involved in them. Their prayers was accented and both the cases have been clubbed together. Common evidence has been recorded and a common award is being passed.

In regard to CR. 28/87

2. By exercising its powers under Section 10(1)(d) and (2A) of the I.D. Act, the Government of India, Ministry of Labour, has made the present reference on the following point of dispute vide its Order No. L-42012(19)/84-D. II(B) dated 10-4-1985. Originally, the reference was made to Industrial Tribunal, Bangalore. Subsequently, it was transferred to this Tribunal by a General Order No. L-11025/A/87-IV(B) dated 13th February, 1987. It is at Sl. No. 29.

POINT OF REFERENCE

"Whether the action of the management of Sericulture Research and Training Institute, Mysore in terminating the services of the following 4 workmen with effect from the dates mentioned against each, is justified? If not, to what relief are the concerned workmen entitled?"

Names	Date of Termination
1. Shri Shankarlinga	25-5-82
2. Shri Papa	11-11-84
3. Shri Bommalingalah	11-1-84
4. Shri Chamaraju	25-5-82

3. The I party workmen have stated as follows:

The four workmen viz., S/Shri Shankarlinga, Papa, Bommalingalah and Chamaraju were employed in the II party as time-scale labourers on monthly salary. They have worked for 10 to 15 years. They were given low wages and made to work in poor working conditions. Their grievances

were not considered. They joined the I party union in order to get their service conditions improved. They took active part in the activities of the Union. The management got prejudiced against them and indulged in anti-labour practices. Their services were terminated on false and fabricated charges. No fair and proper enquiry was held against them. They were not given proper opportunity to defend themselves. They pray for reinstatement and all the consequential benefits.

4. The II party has filed its counter statement and inter alia, it is contended as follows.

The II party is not an industry. The definition of industry excludes all educational, scientific, research and training institutions. The second part has been constituted under an Act known as Central Silk Board Act, 1948. It carries out research work. Its activity is to make research on the mulberry plant, evolving different varieties of plants to improve the leaf yield. To keep such plants healthy, regular operations like, digging, weeding, forming ridges and furrows are carried out. The entire process does not involve any activity which can be called as an industry. Training is imparted to the trainees both from within and outside the country. The criteria laid down in the case of B.W.S.S.B. Vs. A. Rajappa is not attracted. The reference is not maintainable. A preliminary issue may be framed on that point. Domestic enquiries were conducted against these workmen for various acts of misconduct and then they were terminated. It is not correct that they were made to work with low wages and in poor working conditions. The said allegations are not relevant. It is denied that the representations made by these workmen for redressal of their grievances were not considered, that then they joined the I party union. In order to improve their service conditions and that they took active part in organising the trade union. It is denied that the management adopted any anti-labour attitude. It is false that their services were terminated on false and fabricated charges or that they are victimised for their trade union activities. It is not correct that they were not provided with proper opportunity to defend themselves. They were issued with chargesheets for the acts of misconduct committed by them. They submitted that they do not know English and then the chargesheets were translated into Kannada and translated copies were given to them. Each one of them has given his explanation. Since their explanations were not satisfactory, separate domestic enquiries were held against them. Translated copies of the documents were given to them. The proceedings were held in Kannada. They were assisted by a co-employee. List of witnesses were given to them. All the witnesses have been cross-examined by them. No principle of natural justice has been violated. Some members of the I party have been indulging in violent acts and they instigated the other workmen. They created unrest among the workmen. They have committed acts subversive of discipline. They have made the II party to lose confidence in them. To continue them in service will impair and mar the smooth and proper working of the II party. They are not entitled to be reinstated. The Enquiry Officers found them guilty. Second show cause notices were issued to them. On taking into account, all the material on record, their services were terminated. There are no service rules or standing orders of the II party. The model standing orders do not apply. The provisions of Section 11-A do not apply. The reference may be rejected.

In regard to C.R. 76/87

6. By exercising its powers under Section 10(1)(d) and (2A) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute vide its Order No. L-42012/51/S5-D. II(B) dated 23-3-1987.

POINT OF REFERENCE

"Whether the action of the management of Central Sericulture Research and Training Institute, Mysore, in dismissing Shri M. Mahadeva, from service w.e.f. 1-4-1985, is justified? If not, to what relief the concerned workman is entitled to and from what date?"

7. The I party workman has filed his claim statement and his contentions, in brief, are as follows.

He had been working in the II party for the last 17 years in the Drainage Section. He was made to work on low wages and in poor working conditions. He organised a trade union along with other co-workers. In order to improve their working conditions, he represented the grievances of the workmen to the management. There was some confrontation and some settlements were arrived at. He raised the dispute to increase their wages. A bipartite meeting was held and they agreed to increase their wages by Re. 1 per day. However, they insisted upon the workers to increase the workload. The workmen did not agree. The II party refused to implement the increase in the wage. They adopted p.ace. They indulged in unfair labour practice and started victimising them. They declared a partial lock out. The I party workman and 12 others were kept under suspension on fabricated charges. They held some domestic enquiries as an empty formality. No proper opportunity was given to him. Principles of natural justice were not complied with. The management did not consider his clean record. The punishment is disproportionate to the alleged misconduct. The order of dismissal is illegal. He may be ordered to be reinstated with all the consequential benefits.

8. In the counter statement of the II party, the contentions raised by the II party are almost similar to those put forth in C.R. No. 26/87. In addition, it has been contended that the allegations made in para 2 are not correct and that they are made in order to prejudice the mind of the court. In relation to para 3 of the claim statement, it is contended for the II party that it is true that the workman had organised the I party union, but that it is not correct that there were confrontations and settlements. It is admitted that there was a partial lock out from 22-12-80 and it was only against the casual and time scale labourers working in the garden attached to the agronomy section. It is further contended that the dispute regarding the said lockout has been already resolved. It is asserted that a domestic enquiry was held against him in accordance with the law and the principles of natural justice, and that in view of the findings of the Enquiry Officer, a second show cause notice was issued and thereafter taking into account all the material on record, he was dismissed from service. It is prayed that the reference may be rejected.

In Regard to CR 28/87

9. In view of the said pleadings, two preliminary issues were raised as shown below :

ISSUES

- (1) Whether the second party proves that it has held a valid domestic enquiry.
- (2) Whether the activities of the second party do not constitute an industry and whether this Tribunal has no jurisdiction to entertain the reference.

10. In the first instance, Issue No. 2 was taken up as a preliminary issue.

11. The parties adduced evidence by affidavits and argued the matter.

12. By a considered order dated 1-1-1988, it has been held on Issue No. 2 that the II party is an industry and that the reference is maintainable, and that this Tribunal has the jurisdiction to try the same.

13. Thereafter, the parties adduced evidence on preliminary issue No. 1 and they were heard.

14. My two separate considered orders dated 16-8-1988, it has been held on Issue No. 1 that the II party has held the domestic enquiries in accordance with the law.

15. Thereafter, the parties were called upon to adduce evidence and argue the matter on the point whether the findings of the Enquiry Officer are sustainable in law and whether the II party has indulged in any act of victimisation, as alleged by the I party.

16. In CR 76/87, in addition to the aforesaid two preliminary issues, Issue No. 3, has been framed as follows:

"Whether the I party proves that the termination of his services is on account of his services is on account of victimisation and unfair labour practice."

17. In C.R. 28/87, the II party management examined two witnesses and got marked Exs. M-1 to M-50.

18. In the said case, the I party workmen have examined in all 5 witnesses.

19. In C.R. No. 76/87, the management examined two witnesses and got marked Exs. M-1 to M-26.

20. In the said case, the I party workman has examined two witnesses.

21. The parties in both the cases were heard. In addition, the II party has filed some written arguments also.

22. My finding on the point of reference in C.R. No. 28/87 is as follows :

In Regard to C.R. No. 28/87

23. The II party management has proved that the four workmen were guilty of some of the charges as discussed, but it is found that the punishment imposed on them is not commensurate with the acts of misconduct committed by them. In exercise of powers under Section 11-A of the I.D. Act, the punishment is reduced, as shown below.

24. My finding in C.R. No. 76/87 is as follows :

In Regard to C.R. No. 76/87

25. The II party management has proved that the workman was guilty of some of the charges, as discussed, but it is found that the punishment imposed on him is not commensurate with the act of misconduct committed by him. In exercise of the powers under Section 11-A of the I.D. Act, the punishment is reduced as shown below.

26. My finding on Issue No. 3 is that the I party workman has proved that the punishment imposed on him is not proportionate to the acts of misconduct.

REASONS

27. In C.R. N. 28/87 on 4-11-1988, the parties have again filed a joint memo stating that the oral and documentary evidence appearing in C.R. No. 76/87 may also be taken as evidence for the purpose of C.R. No. 28/87, since the facts and law involved in the two cases are similar. Their prayer was accepted and the evidence has been pooled together for both the cases.

28. Perversity has two tests. The first test is to find out whether the findings of the Enquiry Officer are supported by any legal evidence. The second test is to examine whether on the basis of the material placed on record, any reasonable person could have arrived at the findings complained of.

29. Ex. M-7 is the charge sheet dated 1-12-1980 issued to the workman Chamaraju. In regard to the chargesheet Ex. MW-2 M. S. Venkatesh was appointed as the Enquiry Officer. His evidence shows that Ex. M-8 is the reply given by Shri Chamaraju. Ex. M-9 is the notice of enquiry and Ex. M-10 shows that the Presenting Officer had been appointed in the matter. Exs. M-12 and M-13 are the list of witnesses and documents given to him. Ex. M-13 is another notice of enquiry. Ex. M-14 is the order sheet maintained by the Enquiry Officer. The management examined three witnesses before the Enquiry Officer. Their evidence is to be found at Ex. M-15 from pages 1 to 15. The workman filed his written arguments as per Ex. M-16. The Enquiry Officer has given his findings as per Ex. M-17. Ex. M-7 shows that the management alleged against him that he had used bad and abusive words against his co-worker, prevented the workman from doing his normal duties, assaulted and manhandled a co-worker and committed acts subversive of discipline. The report of the Enquiry Officer at Ex. M-17 shows that the Enquiry Officer accepted the evidence of MW-1 Venkatesh and MW-3 Choudhary in holding that the I party Shri Chamaraju had assaulted MW-1 Venkatesh. He further found that the evidence of MW-1 Venkatesh, MW-3 Choudhary was sufficiently corroborated by that of MW-2 Kaparde and that the evidence of DW-1 Ranga examined for the workman did not show that he had any knowledge about the assault made by the workman Chamaraju on Venkatesh outside the room. The Enquiry Officer has observed that the discrepancy found in the evidence of witnesses is minor in nature and do not affect the value of the evidence. The Enquiry Officer has held that the workman Chamaraju had used bad and abusive language against MW-1 Venkatesh and

he had assaulted him. From these facts, it has been held that the workman indulged in acts subversive of discipline.

30. Ex. M-1 dt. 5-1-81 is another chargesheet issued to workman Chamaraju.

31. In the counter statement, the II party has stated that it has no conduct rules, nor any certified standing orders. It is, however, further contended that the model standing orders are not applicable to the II party. Schedule I to the Industrial Employment (Standing Orders) Central Rules 1946 shows the model standing orders in respect of industrial establishments not being coal mines. Standing Order No. 14 deals with the disciplinary action for misconduct. Clause (3) of the said standing order shows about the acts and omissions which can be treated as misconduct.

32. The charge against Chamaraju in Ex. M-1 is that on certain dates, he along with other workmen went to the central mulberry farm and instigated the workmen to slow down work and threatened them that they will be dealt with severely, if they turned out normal work and as a result of his threat and instigation, the workmen threat slowed down their work. It is further alleged that on 5-12-80, he along with some others prevented some workmen from receiving their wages. The management has stated that the said workmen committed 5 kinds of misconduct as shown below :

- (1) leaving the work spot without the permission of the superiors,
- (2) Inciting others to slow down work.
- (3) Threatening and intimidating,
- (4) Trespass and
- (5) Acts subversive of discipline, Ex. M-1.

The evidence of MW-1 Shivashankar shows that he was appointed as the Enquiry Officer and that in regard to the chargesheet Ex. M-1 issued to Chamaraju, he sent a notice of enquiry as per Ex. M-2 and conducted the enquiry against him. Ex. M-3 is the ordersheet maintained by him. The file at Ex. M-4 from pages 1 to 20 shows the evidence of 7 witnesses examined by the Enquiry Officer. Ex. M-5 is the report given by him. In regard to the first charge, the Enquiry Officer has discussed the matter in Para 16 of Ex. M-5. He has relied upon the evidence of MW-4 Anand Issac and has held that on 8-10-80, 13-10-80, 28-10-80, 7-11-80 and 20-11-80, the workman Chamaraju had left his place of work without permission and failed to give satisfactory explanation and in that connection, he has given his reports to the management. The Enquiry Officer has observed that since the evidence of the MW-4 Anand Issac had been substantiated by his reports, the charge of leaving the work spot had been proved. Ex. M-15 series are the reports of the said witness.

33. The management examined MW-1 Basavaraju, MW-2 Ranga, MW-3 Mahadeva, MW-4 Yathi Raju and MW-6 Chandrashekaraiyah, in order to prove the charges of inciting others to show down the work and threatening and intimidating the workmen. Ex. M-38 is the bunch of 18 documents. Ex. M-39 is the written arguments and Ex. M-40 is the bunch of miscellaneous papers in the case of Chamaraju. They have been duly taken into account by the Enquiry Officer. The report shows in paragraphs 8 to 26 that the evidence of these witnesses is supported by their reports and that it proves that the I party Chamaraju along with others intimidated the workmen not to take their salary and he further incited them to slow down their work. On going through the evidence of these witnesses, it is obvious that the finding of the Enquiry Officer in regard to the said two charges is supported by convincing evidence.

34. Dealing with the fourth charge, the Enquiry Officer has observed in Para 21 of the report that there is no direct evidence adduced by the management to prove the charge of trespass. The allegation is that the workman Chamaraju along with others had gone to the work spot of other workmen in order to threaten them and intimidate them to slow down the work. There is no independent charge of trespass. The finding regarding the trespass is not borne out by record.

35. Dealing with the last charge, the Enquiry Officer has held in para 33 of the report that acts subversive of discipline depend upon the findings on the charges 1 to 4. It is thus obvious that committing acts subversive of discipline is not an independent charge, but it is a single charge emerging out of charge numbers 2 and 3. In substance, the only charge proved against the workman is that because he threatened some of the workmen to slow down the work and intimidated some of them not to receive their wages, he committed acts subversive of discipline.

36. The charge sheet issued to Bommalingaiah is at Ex. M-23. It is alleged that he committed acts of misconduct, such as leaving the spot of work, intimidating, threatening and preventing the workmen from doing the work and further committed acts subversive of discipline. Ex. M-24 is the notice of enquiry issued to him. Ex. M-19 in the order sheet maintained by the Enquiry Officer, MW-1 Shivashankar. Ex. M-20 is the list of witnesses and Ex. M-21 is the bunch of evidence recorded by him. Ex. M-22 is the report given by him and Ex. M-25 is the bunch of documents relied upon by the management.

37. Dealing with the first charge in Paras 27 to 63, the Enquiry Officer has discussed the evidence of MW-1 Manie, PW-2, Elias Mohiuddin MW-3 B. Gangaiah, MW-4 H. R. Basavaraju, MW-5. S. B. Mrgadam, MW-6 M. L. Mahadeva, MW-7 G. S. Chandrashekaraiyah and MW-8 C. R. Shastry. The Enquiry Officer has relied upon 18 documents produced by the management and marked as Ex. M-41 series. The evidence of the witness is at Ex. M-42 series. Ex. M-43 is the written arguments. Ex. M-44 is the bunch of miscellaneous papers. He has taken into account the documents which are marked as Ex. M-25 series also. They are the reports given by some of these witnesses on various dates. It cannot be said that the reasoning adopted by the Enquiry Officer is incorrect. He has accepted the evidence of the witnesses, since it is supported by their reports. The evidence of the witnesses is found to be mutually corroborative. In my view, the finding that the said workmen had left the work spot without permission is supported by convincing evidence and it cannot be said that it is perverse.

38. In regard to charge No. 2, the Enquiry Officer has examined the evidence in paras 64 to 71. Accepting the evidence of MW-1 and MW-2, as examined before him, he has arrived at a conclusion that the workmen along with others incited others to slow down work and further threatened and intimidated them.

39. As regards the charge of causing obstruction, the Enquiry Officer has discussed in paragraphs 72 to 79 that the evidence of MW-3 to MW-7 prove that some of the labourers were prevented from going inside and thus he caused obstructions to the work of the II party.

40. The Enquiry Officer has then observed that the evidence on the aforesaid charges indicated that he committed acts subversive of discipline and thus the last charge had been proved. The charge that he committed acts subversive of discipline flows from the alleged acts of inciting others to slow down work, threaten and intimidate other workmen and causing obstruction to the work of the other workmen. It is not an independent charge.

41. Ex. M-29 is the chargesheet issued against the workman Papa. It states that he had left the spot of his work, threatened and intimidated other workmen not to do their duties, caused obstruction to some of the workmen and thus committed acts subversive of discipline. MW-1 Shivashankar is the Enquiry Officer who held the enquiry against him. Ex. M-26 is the order sheet maintained by him. Ex. M-27 is the bunch of depositions of the witnesses recorded by him. It shows that the Enquiry Officer examined in all six witnesses. The documents relied upon by him are at Ex. M-31 series. The report at Ex. M-28 shows that the Enquiry Officer has discussed about the first charge in paras 8 to 18. He has taken into account the evidence of MW-1 and MW-2 and has observed that he did not attend to his work. The Enquiry Officer has also relied upon the 12 documents filed by the management and marked as Ex. M-48 series, also the written arguments Ex. M-49 and also the miscellaneous papers Ex. M-50. Since the evidence of the two witnesses was substantiated by their reports, the Enquiry Officer has accepted their evidence. He has held that the workman was guilty of the charge of leaving the work spot without permission.

42. As regards charge No. 2, the Enquiry Officer has discussed the evidence in paras 19 to 49. The evidence of MW-3 to 6 has been taken into account and since it has been supported by documentary evidence, the same has been accepted. The Enquiry Officer has observed that the evidence of the witnesses is mutually corroborative. I do not find any inconsistency or unreasonableness in the finding recorded by the Enquiry Officer.

43. As regards the third charge of causing obstruction to some workmen, the Enquiry Officer has discussed the evidence from para 50 and has then discussed about the contention raised by the workmen in paras 59 to 63. It has been observed that the evidence produced by the management had established the charge of obstructing some of the workmen from attending to their duties. The last charge of committing acts subversive of discipline flows from the acts alleged in charge numbers 1 to 3. In my view, it cannot be said that the Enquiry Officer has based his findings on no evidence or that no reasonable person could have arrived at the findings complained of on the basis of the material placed before him.

44. MW-1 Shivashankar is the Enquiry Officer in the case of workman Shankarlinga also. The enquiry file of Shankarlinga is placed before me with a list dated 20-2-87. The chargesheet dated 5-1-1981. It states that he committed obstruction to various workmen, behaved in a riotous, disorderly manner, shouted, intimidated and assaulted his superior officers, used abusive language, committed acts of insubordination, assaulted a public servant on duty and thus committed acts subversive of discipline. Ex. M-32 is the order sheet, maintained by MW-1 Shivashankar. Ex. M-33 is the list of witnesses given to the workman. Ex. M-36 is the notice of enquiry is used to him. Ex. M-34 is the bunch containing the evidence of witnesses recorded by MW-1. Ex. M-37 is the bunch of 3 documents relied upon by the management. Ex. M-35 is the report of the Enquiry Officer.

45. The Enquiry Officer has been taken for discussion the charge numbers 1 and 2 together. Therein, he has discussed the evidence of MW-1, MW-3 and MW-4. The discussions on Issue Nos. 1 and 2 is at paras 14 to 20. The evidence of MW-1, MW-3 and MW-4 has been believed on the ground that the same has been supported by documentary evidence. The Enquiry Officer has rightly observed that the presence of the said witness was not denied. The Enquiry Officer has also taken into account the bunch of management papers marked as Ex. M-45 series, Ex. M-46, the written arguments and Ex. M-47, the miscellaneous papers in the case. The reasoning adopted by the Enquiry Officer is convincing.

46. Charge numbers 3, 4, 6 and 7 have been taken together and they have been considered at paras 23 to 31. In that connection, the Enquiry Officer has taken into account the evidence of MW-2 Mahadeva, MW-3 Chandrashekarai and MW-4 Rajanna. The evidence of MW-2, MW-3 and MW-4 is substantiated by documentary evidence. The said evidence is mutually corroborative. In my view, the finding recorded by the Enquiry Officer is supported by concrete evidence and cannot be assailed.

47. As regards the rest of the charges and in regard to the objections raised by the said workmen, the Enquiry Officer has discussed the matter at paras 35 to 39. In the light of the evidence given by the management witnesses, the Enquiry Officer has rejected the contention of the workman that he did not behave in a manner prejudicial to the interests of the II party. The oral and documentary evidence discloses that the workmen had behaved in a riotous and disorderly manner, obstructed the workmen from turning out work, indulged in threatening and intimidating the superiors, committed acts of insubordination and had tried to assault a public servant on duty, such as the Sub-Inspector of Police and thus committed acts subversive to discipline. It cannot be said that no reasonable person could have arrived at the findings complained of, on the basis of the said material.

48. For the workmen, WW-1 Shankarlinga, WW-2 Somalingakiah, WW-3 M. Mahadeva, WW-4 Papa and WW-5 Chamaraju have been examined. Their evidence is mainly on the point that proper opportunity was not given to them to defend themselves. The said matter has been already decided.

49. In C.R. 76/87 the workman M. Mahadeva has examined himself twice. His evidence after the finding on the preliminary issue was recorded is on the point of victimisation. The same will be dealt with subsequently. In regard to the perversity of the findings, the II party management shall have to establish its case only on the basis of the evidence placed on record before the Enquiry Officer. The said evidence has been scrutinised by me closely and except in the case of Chamaraju, as observed earlier, the findings of the Enquiry Officers in regard to the rest of the charges against all these workmen are unassailable.

Ref. No. 76/87, Relating to M. Mahadeva (Reference is to Management. Witnesses and exhibits hereunder is on w/r to C. R. 76/87).

50. In the case of M. Mahadeva, C.R. 76/87, MW-2, Shri Dwarkanath was the Enquiry Officer. Ex. M-5 is the chargesheet issued to him. It shows that the management alleged against him that he had left the work spot without permission incited the other workmen to slow down work, threatened and intimidated them and committed acts subversive of discipline. Ex. M-10 is the explanation given by him. He has denied the allegation. Thereupon, the Enquiry Officer has issued the notice of enquiry Ex. M-8. The proceedings are recorded in Ex. M-12. Ex. M-11 is the proceedings conducted by the earlier Enquiry Officer. Ex. M-13 is the report of the Enquiry Officer. The evidence of the witness recorded by him is to be found from page 21 of the file. The report of the Enquiry Officer, Ex. M-13 shows that in the first instance, he has set out the evidence of the witnesses. On pages 32, 33 and 34, there is the discussion of the evidence. The Enquiry Officer has held that the evidence of witnesses such as Yathiraju, Krishnan Unni, C. V. Venkataraman and G. S. Chandrashekarai is trustworthy and that it proves the charges against him. It cannot be said that the appreciation of the evidence by the Enquiry Officer is not cogent and consistent. It cannot be said that the Enquiry Officer has based his findings on no evidence or that no reasonable person could have arrived at the said findings.

GENERAL DISCUSSION RELATING TO CR 28/87 and 76/87

51. In para 5 of the claim statement, it has been contended in CR 28/87 that the workmen have been victimised for their legitimate trade union activities. In the claim of statement of M. Mahadeva, CR 76/87, it has been contended that because the workmen were made to work in poor working conditions and on low wages, the workmen organised the I party union and made representation to the management for redressal of their grievances. It is further contended that as a result of conciliation, some settlement was arrived at and the management had agreed to increase their wage by Re. 1 per day. It is further alleged that the management however insisted on the increase in the work load, for which the workmen resisted and then the II party adopted an anti-labour attitude and started indulging in unfair labour practice and victimised them. It is further alleged that these workmen and some others, in all, 13 were suspended and that enquiries were held against them on fabricated charges and that their orders of dismissal are not legal. It has been then contended that the punishment imposed on them is highly disproportionate.

52. As has been observed earlier, the evidence in CR 28/87 and 76/87 is common in regard to the case of the parties on the point of unfair labour practice and victimisation. In that connection WW-1 Mahadeva has given evidence on 17-10-1988. His evidence discloses that he has been the General Secretary of the I party union since 1977 and that in regard to the demands made by the workmen, there were negotiations and settlements. He further states that on 15-9-80, the management had issued a letter showing the work load of each workman, but it was not a part of the settlement. In para 41 of his evidence, WW-1 Mahadeva further states that when they had gone to receive their salary of November 1980 in December 1980, the management had prepared one proforma undertaking and insisted that each workman should give that undertaking and if the workman did not turn up the required quantity of work, he will receive only so much of wages proportionate to the work turned out by him. He has further sworn that the management had sought the aid

of the police and then levelled charges against them and also filed criminal complaints. The management itself has produced the original documents at Exs. M-14 to M-16 (in CR 76/87). The originals have been returned and the xerox copies have been marked. As Ex. M-14 (a) to M-26 (a). Ex. M-14 (a) is the settlement dated 1-8-80. Ex. M-15 (a) is the settlement dated 10-12-78. It shows that the workmen were represented by WW-1 M. Mahadeva, and that he was then the Assistant Secretary. Ex. M-16(a) dated 21-6-79 discloses that the management had agreed to increase their wages by Re. 1 per day. Ex. M-17 (a) dated 15-9-80 is a letter by the Director to the workmen showing the work load of each workman. Ex. M-18 (a) is a memo issued by the Director to the workmen. It shows that it was issued with reference to Memo dated 15-9-80. Ex. M-17 (a) and it calls upon the workmen to give the work as shown in Ex. M-17 (a). Ex. M-19 (a) is a notice issued by the Director dated 6-10-80 to show that the Director again called upon them to turn out the work as shown in Ex. M-17 (a). Ex. M-20 (a) dated 4-11-1980 is another memo on the same subject. It further states that in case they fail to turn out the required quantum of work, they will be paid proportionate wages only. Ex. M-21(a) dated 5-12-80 states that the workmen had not given the required undertaking and that they had not improved in giving work and that they will be paid only proportionate wages. The evidence of WW-1 Mahadeva is thus substantiated by these documents at Exs. M-14 (a) to M-20 (a). It is conceded in the counter statement itself that there was partial lock out. The notice of lock out at Ex. M-22(a) substantiates that fact. Ex. M-23 (a) shows that the said lock out was lifted on 18-4-81. From the date of Ex. M-22 (a) i.e. dated 22-12-80 till the date of Ex. M-23(a) dt. 18-4-81, there was thus strained relationship between the management and the workmen and that there was a partial lock-out. Ex. M-24 (a) further discloses that the management had again issued another notice of lock-out on 29-4-81 and that it was lifted by the notice dt. 31-7-81 as per Ex. M-25 (a). The minutes of the meeting between the parties dated 22-5-1986 at Ex. M-26 (a) shows that the insisted upon the quantum of work and ultimately the management agreed that the said workmen were not involved in the made against the rest of the workmen in both the charge-sheets of misconduct. The evidence produced by both the parties shows that the relations between the parties were strained, because on the one hand the workmen insisted upon the payment of the increased wages, whereas the management insisted upon the quantum to work and ultimately the management had to resort to two lock-outs. Except in the case of Chamaraju who is involved in two enquiries, the allegations made against the rest of the workmen in both the charge-sheets is that they obstructed the other workmen from turning out the required quantity of work, that they threatened them, that in some cases they used bad language and thus involved themselves in acts of insubordination and acts subversive of discipline.

53. On page 906 of the Law of Industrial Disputes by O. P. Malhotra, 4th Edition, Volume 2, it has been stated that the Tribunal can interfere with the disciplinary action taken by the employer, if there is want of good faith or if there was victimisation has been guilty of basic error. The order of punishment itself may be a measure of victimisation, if this punishment is disproportionate to the act of alleged misconduct. It is asserted by the workmen that the workman M. Mahadeva was the General Secretary of the Union and these other workmen were the active members of the Union. The management has also alleged in the chargesheets that these persons were the active members of the Union and they had taken predominant part in seeing that the objectives of the management were fulfilled. If a workman has been over-anxious and has trespassed the ordinary limits of dis-cency and required behaviour, the punishment of dismissal from service, which means civil death cannot be said to be proportionate to the alleged acts of misconduct.

54. The learned counsel for the II party has filed the written arguments. Therein, it has been contended that the II party is not an industry. The said submission does not hold water, since there is already a considered finding that the II party is an industry. The said party has contended that the provisions of the Industrial Employment (Standing Orders) Act 1946 are not applicable to the II party. It has been contended that the II party is not an industrial establishment as defined in Section 2(ii) of the payment of wages Act, nor a factory and therefore the provisions of the said

act are not applicable. The definition of industrial or other establishment in section 2(i) of the Payment of wages Act shows that the II party does not fall within any of the clauses from (a) to (g) of the said provision. Clause (h) also does not apply, for the reason that the Central Government has not declared the II party as an industrial establishment.

55. The learned counsel for the II party has then contended that the Law of Master and Servant governs the relationship between the parties and in that connection has placed reliance on the case of M/s. Shiva Flour Mills Vs. The Workmen (AIR 1970 Patna Page 273). The authority supports his contention.

56. The II party has placed reliance on the case of Burn and Co., Calcutta Vs. Their Employees (AIR 1959 S.C. Page 529). The authority is on the point that if a workman systematically absentia himself from work without permission or leave, he acts in gross violation of discipline. The facts of these cases at hand disclose that on account of the grievance that the management had imposed the workload unilaterally, they had tried to see that the workman resorted to work to rule and in some cases prevented the loyal workers from attending to their work. It is not a case where the workmen had made it a habit to absent themselves regularly and go on loitering. In the aforesaid background, in my opinion, it cannot be said that these workmen were guilty of such serious acts of misconduct which justify the action of the management in dismissing them from service.

57. With reference to the case of Gujarat Rubber Works Ltd. Vs. their workman (1956 1 L.L.J. page 731), it has been stated in the written arguments that incitement to go slow is a serious misconduct and that a workman can be dismissed for the said act of misconduct. The facts of the reported case would show that the workmen had caused loss to the employer and also to the industry concerned and in that context, it has been held that it was a serious act of misconduct. In the cases at hand, it has been already observed that because the management subsequently tugged workload for the already conceded increase in wages, the relations became strained and in that context, it cannot be said that there was a deliberate unilateral act on the part of the workmen to cause loss to the management. Since the facts of the reported case differ, I do not find that the misconduct committed by these workmen is of such a serious type.

58. In the written arguments, a reference has been made to the case of Workmen Vs. S.C. Industries (1954)55, FJR (LAT). The authority has not been placed before me. It is difficult to appreciate the contentions raised by the II party in the absence of the authority.

59. The II party has then referred to the case of Bathgates Employees' Union Vs. Bathgate and Co. Ltd. (1953 1 L.L.J. Page 493). The authority has been relied upon to show that at the behest of some workmen, others adopted a go-slow policy and it was considered to be a serious misconduct warranting dismissal. The facts of the reported case would show that many of the workmen were willing to take half month's wages as bonus, but twelve workmen threatened them and compelled them to participate in the go-slow policy. In that context, it has been held that it is a serious act of misconduct. I have already discussed about the facts of the present cases, which made the workmen restive and to indulge in certain acts of misconduct. In my view, the facts of the reported case differ and the principle laid down is not attracted.

60. The II party has then relied upon the case of Bhoja Setty Vs. Management of R.S.R.T.C. & another (1988 Kar. L.J. Page 21). The facts of the reported case would show that when an employee was about to retire, a chargesheet was issued to him and he was dismissed from service. In the Labour Court, the court upheld the charges of misconduct but reduced the penalty of dismissal to one of withholding of three increments. The employee sought for back wages. The Hon'ble High Court has held that the charge of misconduct had been proved and that the labour court had properly held that he cannot be granted back wages. The authority has been relied upon to support their contention that in the present cases back wages need not be allowed.

61. In the file of M. Mahadeva, there is the order of dismissal. The relative portion states that the acts of misconduct alleged against him had been proved, that they are of

grave nature, that his past record did not disclose any extenuating or mitigating circumstances and therefore he had been dismissed from service. In the additional written arguments submitted by the II party, it has been strongly contended that the acts committed by these workmen are of a serious nature and that the punishment imposed against them is proper and reasonable.

62. Item No. 13 of the first part of the 5th schedule shows that failure to implement an award, settlement or agreement is an act of unfair labour practice.

Again Clause (g) of Item No. 5 of the first part shows that if the employer imposes disproportionate punishment for an act of minor misconduct without having regard to the nature of the particular misconduct or the past record or the service of the workman, it is an act of unfair nature. There is no dispute on the point that these workmen have put in several years of service. The order of dismissal is bald in setting out that there are no extenuating or mitigating circumstances. The orders of dismissal of these workmen have not been got marked. The order of dismissal of M. Mahadeva does not show about the facts of his previous record and whether he had indulged in any act of misconduct in the past. In my opinion, these acts of misconduct are of a minor character and imposing the punishment of dismissal is disproportionate.

63. For the I party the authority of Omprakash Vs. State of Punjab [1981 (i) L.L.J. page 479] was relied upon. It shows that a duty lies on the Tribunal to see whether the workman has been victimised and whether it is a fit case to invoke the provisions of Section 11 A of the I.D. Act. Reference was also made to the case of Madura Coats Limited Vs. Labour Court [1981 (1) L.L.J. Page 57]. The authority states that depending upon the facts and circumstances of the case, the court should invoke the provisions of section 11A of the I.D. Act. In the context of the facts of the said case, it has been held that deprivation of back wages was enough punishment and it was sufficient to meet the ends of justice.

64. There is no dispute on the point that all these workmen have been acquitted by the criminal court.

65. The order of dismissal of Chamaraju and Shankarlinga is of May, 1982. The orders of dismissal of Bommalalingaiah and Papa are of 1984. The order of dismissal of Mahadeva is of 1-4-85. The workmen have established that they are unemployed since the time of their dismissals. They have already suffered loss of employment and emoluments for these years ranging from 4 to 6. It is an admitted fact that 5 workmen who were similarly placed have been already reinstated. They are as follows:

- (1) Ranganawamy,
- (2) Bhujangalaiah,
- (3) Gavi,
- (4) Lakshminamma and
- (5) Arasanna.

It has not been established by the management that the chargesheets issued to them were not similar or that the evidence proposed to be adduced against them was different from the evidence now adduced against these workmen. In my opinion the loss of service and emoluments for these years is sufficient punishment for all these workmen except Chamaraju. Since the acts of misconduct alleged and proved against Chamaraju is of two chargesheets and serious in nature than the acts alleged against others, I find that the punishment of stoppage of one increment should be imposed against him in the place of the order of dismissal. In view of the aforesaid two authorities cited for the I party, I find it expedient to invoke the provisions of Section 11 A of the I.D. Act.

65. In the result, an award is passed to the effect that the management of Sericultural Research and Training Institute, Morena was not justified in terminating the services of the following four workmen of CR. 28/87.

- | | |
|------------------------------|--------------------------|
| (1) Shri Shankarlinga | with effect from 25-5-82 |
| (2) Shri Papa | " " 11-11-84 |
| (3) Shri Bommalalingaiah and | " " 11-1-84 |
| (4) Shri Chamaraju | " " 25-5-82 |

and one workman of CR 76/87, viz., Shri M. Mahadeva from service with effect from 1-4-1985.

66. It is held that the management had proved the acts of misconduct as alleged against them in their respective chargesheets.

67. In the place of the punishment of termination from service, it is ordered that the management shall reinstate all of them, except Sl. No. 4 Chamaraju. The management shall record the punishment of stoppage of one increment in the case of Shri Chamaraju.

68. The management shall reinstate all the four workmen of CR 28/87 and one workman of CR 76/87. The management shall record the punishment for the respective charges in regard to the three workmen of CR 28/87 viz., Shri Shankarlinga, Shri Papa and Shri Bommalalingaiah and one workman of CR 76/87 Shri M. Mahadeva that the deprivation of their emoluments from their respective dates of termination of their services till their date of reinstatement shall be the only punishment. The management shall further record that the punishment in the case of Chamaraju, should be the stoppage of one increment.

69. The management shall reinstate all the four workmen of CR 28/87 and one workman of CR 76/87 within one month from the date on which this award comes into force and shall give and pay all the consequential benefits, except their back wages, in addition save that in the case of Shri Chamaraju one increment shall be stopped.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer
[No. T-42012/19/84-D.I(P)]
HARI SINGH, Desk Officer.

